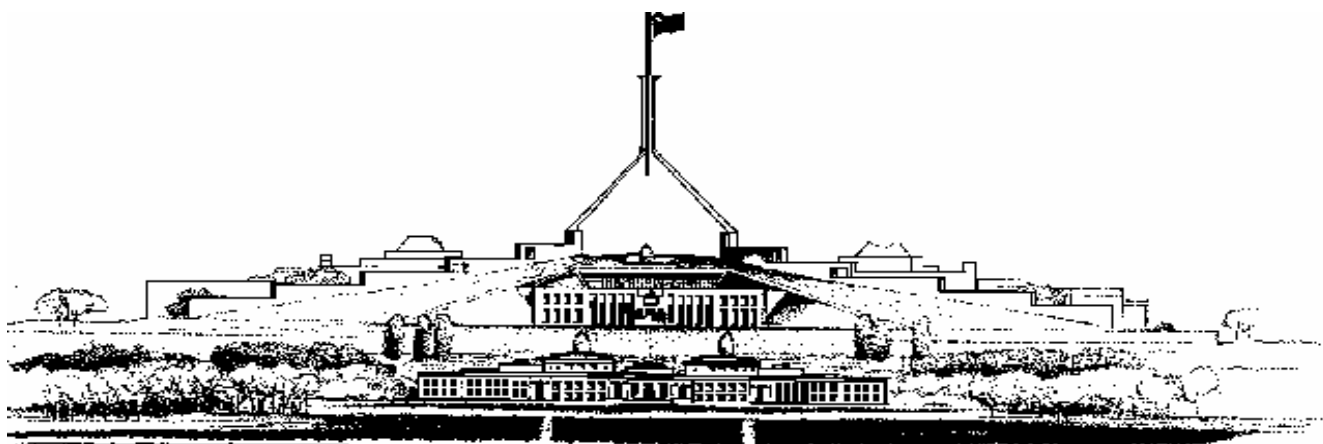




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



Senate

Official Hansard

No. 18, 2005

MONDAY, 28 NOVEMBER 2005

FORTY-FIRST PARLIAMENT
FIRST SESSION—FOURTH PERIOD

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SITTING DAYS—2005

Month	Date
February	8, 9, 10
March	7, 8, 9, 10, 14, 15, 16, 17
May	10, 11, 12
June	14, 15, 16, 20, 21, 22, 23
August	9, 10, 11, 16, 17, 18
September	5, 6, 7, 8, 12, 13, 14, 15
October	4, 5, 6, 10, 11, 12, 13
November	3, 7, 8, 9, 10, 28, 29, 30
December	1, 2, 5, 6, 7, 8, 9

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**FORTY-FIRST PARLIAMENT
FIRST SESSION—FOURTH PERIOD**

Governor-General

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

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert

Deputy President and Chairman of Committees—Senator John Joseph Hogg

Temporary Chairmen of Committees—Senators Guy Barnett, George Henry Brandis, Hedley Grant Pearson Chapman, Patricia Margaret Crossin, Alan Baird Ferguson, Michael George Forshaw, Stephen Patrick Hutchins, Linda Jean Kirk, Philip Ross Lightfoot, Gavin Mark Marshall, Claire Mary Moore, Andrew James Marshall Murray, Hon. Judith Mary Troeth and John Odin Wentworth Watson

Leader of the Government in the Senate—Senator the Hon. Robert Murray Hill

Deputy Leader of the Government in the Senate—Senator the Hon. Nicholas Hugh Minchin

Leader of the Opposition in the Senate—Senator Christopher Vaughan Evans

Deputy Leader of the Opposition in the Senate—Senator Stephen Michael Conroy

Manager of Government Business in the Senate—Senator the Hon. Christopher Martin Ellison

Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

Senate Party Leaders and Whips

Leader of the Liberal Party of Australia—Senator the Hon. Robert Murray Hill

Deputy Leader of the Liberal Party of Australia—Senator the Hon. Nicholas Hugh Minchin

Leader of The Nationals—Senator the Hon. Ronald Leslie Doyle Boswell

Deputy Leader of The Nationals—Senator the Hon. John Alexander Lindsay (Sandy) Macdonald

Leader of the Australian Labor Party—Senator Christopher Vaughan Evans

Deputy Leader of the Australian Labor Party—Senator Stephen Michael Conroy

Leader of the Australian Democrats—Senator Lynette Fay Allison

Leader of the Family First Party—Senator Steve Fielding

Liberal Party of Australia Whips—Senators Jeannie Margaret Ferris and Alan Eggleston

Nationals Whip—Senator Julian John James McGauran

Opposition Whips—Senators George Campbell, Linda Jean Kirk and Ruth Stephanie Webber

Australian Democrats Whip—Senator Andrew John Julian Bartlett

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Members of the Senate

Senator	State or Territory	Term expires	Party
Abetz, Hon. Eric	TAS	30.6.2011	LP
Adams, Judith	WA	30.6.2011	LP
Allison, Lynette Fay	VIC	30.6.2008	AD
Barnett, Guy	TAS	30.6.2011	LP
Bartlett, Andrew John Julian	QLD	30.6.2008	AD
Bishop, Thomas Mark	WA	30.6.2008	ALP
Boswell, Hon. Ronald Leslie Doyle	QLD	30.6.2008	NATS
Brandis, George Henry	QLD	30.6.2011	LP
Brown, Carol Louise ⁽⁴⁾	TAS	30.6.2008	ALP
Brown, Robert James	TAS	30.6.2008	AG
Calvert, Hon. Paul Henry	TAS	30.6.2008	LP
Campbell, George	NSW	30.6.2008	ALP
Campbell, Hon. Ian Gordon	WA	30.6.2011	LP
Carr, Kim John	VIC	30.6.2011	ALP
Chapman, Hedley Grant Pearson	SA	30.6.2008	LP
Colbeck, Hon. Richard Mansell	TAS	30.6.2008	LP
Conroy, Stephen Michael	VIC	30.6.2011	ALP
Coonan, Hon. Helen Lloyd	NSW	30.6.2008	LP
Crossin, Patricia Margaret ⁽³⁾	NT		ALP
Eggleston, Alan	WA	30.6.2008	LP
Ellison, Hon. Christopher Martin	WA	30.6.2011	LP
Evans, Christopher Vaughan	WA	30.6.2011	ALP
Faulkner, Hon. John Philip	NSW	30.6.2011	ALP
Ferguson, Alan Baird	SA	30.6.2011	LP
Ferris, Jeannie Margaret	SA	30.6.2008	LP
Fielding, Steve	VIC	30.6.2011	FF
Fierravanti-Wells, Concetta Anna	NSW	30.6.2011	LP
Fifield, Mitchell Peter ⁽²⁾	VIC	30.6.2008	LP
Forshaw, Michael George	NSW	30.6.2011	ALP
Heffernan, Hon. William Daniel	NSW	30.6.2011	LP
Hill, Hon. Robert Murray	SA	30.6.2008	LP
Hogg, John Joseph	QLD	30.6.2008	ALP
Humphries, Gary John Joseph ⁽³⁾	ACT		LP
Hurley, Annette	SA	30.6.2011	ALP
Hutchins, Stephen Patrick	NSW	30.6.2011	ALP
Johnston, David Albert Lloyd	WA	30.6.2008	LP
Joyce, Barnaby	QLD	30.6.2011	NATS
Kemp, Hon. Charles Roderick	VIC	30.6.2008	LP
Kirk, Linda Jean	SA	30.6.2008	ALP
Lightfoot, Philip Ross	WA	30.6.2008	LP
Ludwig, Joseph William	QLD	30.6.2011	ALP
Lundy, Kate Alexandra ⁽³⁾	ACT		ALP
Macdonald, Hon. Ian Douglas	QLD	30.6.2008	LP
Macdonald, John Alexander Lindsay (Sandy)	NSW	30.6.2008	NATS
McEwen, Anne	SA	30.6.2011	ALP
McGauran, Julian John James	VIC	30.6.2011	NATS
McLucas, Jan Elizabeth	QLD	30.6.2011	ALP
Marshall, Gavin Mark	VIC	30.6.2008	ALP

Senator	State or Territory	Term expires	Party
Mason, Brett John	QLD	30.6.2011	LP
Milne, Christine	TAS	30.6.2011	AG
Minchin, Hon. Nicholas Hugh	SA	30.6.2011	LP
Moore, Claire Mary	QLD	30.6.2008	ALP
Murray, Andrew James Marshall	WA	30.6.2008	AD
Nash, Fiona	NSW	30.6.2011	NATS
Nettle, Kerry Michelle	NSW	30.6.2008	AG
O'Brien, Kerry Williams Kelso	TAS	30.6.2011	ALP
Parry, Stephen	TAS	30.6.2011	LP
Patterson, Hon. Kay Christine Lesley	VIC	30.6.2008	LP
Payne, Marise Ann	NSW	30.6.2008	LP
Polley, Helen	TAS	30.6.2011	ALP
Ray, Hon. Robert Francis	VIC	30.6.2008	ALP
Ronaldson, Hon. Michael	VIC	30.6.2011	LP
Santoro, Santo ⁽¹⁾	QLD	30.6.2008	LP
Scullion, Nigel Gregory ⁽³⁾	NT		CLP
Sherry, Hon. Nicholas John	TAS	30.6.2008	ALP
Siewert, Rachel	WA	30.6.2011	AG
Stephens, Ursula Mary	NSW	30.6.2008	ALP
Sterle, Glenn	WA	30.6.2011	ALP
Stott Despoja, Natasha Jessica	SA	30.6.2008	AD
Troeth, Hon. Judith Mary	VIC	30.6.2011	LP
Trood, Russell	QLD	30.6.2011	LP
Vanstone, Hon. Amanda Eloise	SA	30.6.2011	LP
Watson, John Odin Wentworth	TAS	30.6.2008	LP
Webber, Ruth Stephanie	WA	30.6.2008	ALP
Wong, Penelope Ying Yen	SA	30.6.2008	ALP
Wortley, Dana	SA	30.6.2011	ALP

(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

HOWARD MINISTRY

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

(The above ministers constitute the cabinet)

HOWARD MINISTRY—*continued*

Minister for Justice and Customs and Manager of Government Business in the Senate	Senator the Hon. Christopher Martin Ellison
Minister for Fisheries, Forestry and Conservation	Senator the Hon. Ian Douglas Macdonald
Minister for the Arts and Sport	Senator the Hon. Charles Roderick Kemp
Minister for Human Services	The Hon. Joseph Benedict Hockey MP
Minister for Citizenship and Multicultural Affairs	The Hon. John Kenneth Cobb MP
Minister for Revenue and Assistant Treasurer	The Hon. Malcolm Thomas Brough MP
Special Minister of State	Senator the Hon. Eric Abetz
Minister for Vocational and Technical Education and Minister Assisting the Prime Minister	The Hon. Gary Douglas Hardgrave MP
Minister for Ageing	The Hon. Julie Isabel Bishop MP
Minister for Small Business and Tourism	The Hon. Frances Esther Bailey MP
Minister for Local Government, Territories and Roads	The Hon. James Eric Lloyd MP
Minister for Veterans' Affairs and Minister Assisting the Minister for Defence	The Hon. De-Anne Margaret Kelly MP
Minister for Workforce Participation	The Hon. Peter Craig Dutton MP
Parliamentary Secretary to the Minister for Finance and Administration	The Hon. Dr Sharman Nancy Stone MP
Parliamentary Secretary to the Minister for Industry, Tourism and Resources	The Hon. Warren George Entsch MP
Parliamentary Secretary to the Minister for Health and Ageing	The Hon. Christopher Maurice Pyne MP
Parliamentary Secretary to the Minister for Defence	The Hon. Teresa Gambaro MP
Parliamentary Secretary (Trade)	Senator the Hon. John Alexander Lindsay (Sandy) Macdonald
Parliamentary Secretary (Foreign Affairs) and Parliamentary Secretary to the Minister for Immigration and Multicultural and Indigenous Affairs	The Hon. Bruce Fredrick Billson MP
Parliamentary Secretary to the Prime Minister	The Hon. Gary Roy Nairn MP
Parliamentary Secretary to the Treasurer	The Hon. Christopher John Pearce MP
Parliamentary Secretary to the Minister for the Environment and Heritage	The Hon. Gregory Andrew Hunt MP
Parliamentary Secretary (Children and Youth Affairs)	The Hon. Sussan Penelope Ley MP
Parliamentary Secretary to the Minister for Education, Science and Training	The Hon. Patrick Francis Farmer MP
Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry	Senator the Hon. Richard Mansell Colbeck

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	Gavan Michael O'Connor MP
Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow Minister for Small Business and Competition	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, 28 November 2005

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

BUSINESS

Rearrangement

Debate resumed from 10 November, on motion by **Senator Abetz**:

That—

- (1) On Thursday, 1 December and 8 December 2005:
 - (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to 11.40 pm;
 - (b) the routine of business from 7.30 pm shall be government business only;
 - (c) divisions may take place after 4.30 pm; and
 - (d) the question for the adjournment of the Senate shall be proposed at 11 pm.
- (2) The Senate shall sit on Friday, 2 December and 9 December 2005 and that:
 - (a) the hours of meeting shall be 9.30 am to 3.30 pm;
 - (b) the routine of business shall be:
 - (i) notices of motion, and
 - (ii) government business only; and
 - (c) the Senate shall adjourn without any question being put.

Senator CONROY (Victoria) (12.31 pm)—I was making the point, when we wound up last sitting week, that Tony Blair was very serious about wanting to deal with the terrorism issues. He did not want to ram it through his parliament. He put a bill down—

Senator Ellison interjecting—

Senator CONROY—invited all the political parties to contribute to it, and had months of debate. Senator Ellison, you make a joke of the fact that Tony Blair did not win it. But that is not the point. The point is that

he was prepared to put forward his agenda in a public sense and have a debate about it—not the farce that we have been going through in this country. However, during the last sitting period, we saw the government try to force through a committee referral after 4.30 pm on a Thursday—which would have seen the Anti-Terrorism Bill referred to a committee for a whole day—one whole day. While the government backed off on this position, it is easy to see how a disregard for the Senate could result in drafting errors slipping through and ineffective legislation failing to perform its intended function. Contempt for external review does not result in good governance.

The ultimate expression of the Howard government's contempt for the Senate, however, can be seen in the government's willingness to gag debate in the Senate. Again, my own portfolio area was the subject of one of the most appalling examples of this government arrogance and contempt for parliamentary debate. As senators would be aware, the normal practice in the Senate is that a bill is not debated before the sitting after it is tabled. Sometimes the Senate suspends this rule if there is general agreement that a bill is urgent. This did not occur with respect to the Telstra bills. Indeed, the government used their Senate numbers to minimise scrutiny of the Telstra bills by bringing on the debate immediately. They did it because they have the numbers to overturn normal practice. Industry journal *CommsDay* recorded the telecommunications industry's frustration at this contemptuous behaviour as follows:

Representatives across the telecommunications industry are appalled at the government's blitzkrieg-like efforts to push through the Telstra sale bills, with many expressing exasperation at the lack of consultative opportunity.

Once the debate for the bills actually started, things just got worse. The government gagged debate on four separate occasions

during debate on the following bills: the Telstra (Transition to Full Private Ownership) Bill 2005, the Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005, the Telecommunications Legislation Amendment (Future Proofing and Other Measures) Bill 2005, the Telecommunications (Carrier Licence Charges) Amendment (Industry Plans and Consumer Codes) Bill 2005, and the Appropriation (Regional Telecommunications Services) Bill 2005-2006.

The government then guillotined the debate on 14 September by announcing there would be a time limit. These were not, as the government claimed, bills that dealt with issues that had already been considered by the Senate. The majority of the bills I have just mentioned dealt with the complex regulatory environment that would apply to the Australian telecommunications sector for the coming years. These bills dealt with regulatory issues that were the subject of significant controversy and public discomfort from the ACCC and many industry players and interest groups.

However, the government did not believe that rigorous parliamentary scrutiny of these bills was necessary, and it gagged and guillotined the debate. This guillotine had the effect of preventing 10 speakers from stating their views on the legislation. Not only were Labor senators gagged, but Family First Senator Stephen Fielding was also gagged and Democrat speakers such as Senator Stott Despoja had their speeches unacceptably curtailed. Of course, despite the fact that the arrogant Howard government was shutting down debate on the bill, the government still thought it was acceptable to allow Senator Barnaby Joyce to jump the queue and to move up the speaking list to attempt to justify his betrayal in his voting for the Telstra sale. This dismissal was then further compounded by one of the most disgraceful per-

formances I have seen in my 10 years in this chamber. The government, to protect an incompetent minister—who did not understand the very bills before her and certainly could not answer any questions—filibustered the committee stage of the debate on these bills, in an unprecedented abuse of Senate practice.

During the committee stage of the debate on this bill, serious issues emerged about the content of assurances provided by the government to the National Farmers Federation to secure their support for the sale. Unfortunately, despite the emergence of these concerns, the Senate was prevented from performing its review role and getting to the bottom of this issue by filibustering questions to the minister from government senators. Senator McGauran's one-finger salute earlier this year is the perfect symbol of the government's contempt for the Senate during this debate. It is clear that the Howard government's calming words on their use of their Senate majority do not match their actions.

So what will be the outcome of this arrogance and contempt for parliament for the checks and balances of Australian democracy? What will be the impact of the Howard government trashing the role of the Senate as a house of review? The impact of this will be that the Australian public will bear the brunt of unadulterated Howard government extremism. The Senate will no longer be able to save the Australian public from extremist policies like the government's IR reforms, the sale of Telstra and the pernicious Welfare to Work reforms. Over the coming years, we will see John Howard uncut. We will see John Howard without an independent Senate as a check on his power. And we will see an extreme and out of touch Prime Minister do what he has always wanted to do. And, believe me, it will not be pretty.

Senator BOB BROWN (Tasmania) (12.37 pm)—I will be brief. The Greens oppose this motion. The government could have sat throughout July this year if it wanted to, but there were no sittings. It could sit through April next year if it wants to, but there are no sittings. Legislation like the very complicated industrial relations legislation—which is to be sledge-hammered; guillotined, to use the parliamentary term—ought never to be treated that way, because of the extraordinary impact it has throughout the Australian electorate.

Let there be no doubt about this: the government can manipulate the Senate and is doing so. The government can dishonour the processes of the Senate and is doing so. The government may try to treat the Senate as it does the House of Representatives—that is, as a rubber stamp—and convert this country to executive government, but the government will reap the whirlwind of that. Fortunately, it cannot do away with elections. It can do away with the proper role of the Senate by using the guillotine—that is, putting such a range of important legislation before the Senate and demanding that debate be ended and that votes be taken knowing that it is going to win those votes. It can even have a couple of people perched on the benches opposite who occasionally move motions to protect Christmas Day or Good Friday, without making any real impact on the noxious effect on workers right across the country 360 days a year, which are then endorsed by the National Party. People have to live with the laws put through this place, and the government will face the inevitable consequences of that further down the line.

We are in an aberrant period for modern democracy in Australia with the Senate in the hands of the government. The government has the numbers to force through this change to the sitting hours to make sure it gets two big pieces of legislation in particular—the

antiterror laws and the industrial relations laws—through the parliament to please the Prime Minister at the displeasure of the country. In this case, the public will have a long memory. The Greens oppose the motion. We will vote against it and we will vote against the treatment of the other legislation.

I note that there are some commentators in the media, who have not been anywhere near me, saying how frustrated and angry the minor parties are about not having the decisive vote in the Senate. That is hogwash. If you want to write stuff like that, come and see us. I am delighted and privileged to be here in the Senate, particularly in this nasty Senate that we now have. It is where the opposition and the crossbenchers are crucial in a way that they are not when you have a majority on this side of the house, forcing debate and putting pressure on the government. We have robust standing orders in this place which ultimately cannot be removed, though I have no doubt that they will be tinkered with. We have a constitutional imperative for this house to be able to look at all legislation coming from the other place. I delight in that. The tougher it gets, the more important it is that we representing the Greens, in unprecedented numbers, from our corner of the Senate are here to take on this government, and we will do that to our fullest extent.

Senator BARTLETT (Queensland) (12.42 pm)—What Senator Brown was just saying is a good note to follow on from. There are two important points to emphasise following on from what he said. The first is that the sorts of disgraceful abuses of process that we have seen inflicted on the Senate by the government majority in the last few months would not have happened and did not happen under the previous Senate for the last 24 years. The Democrats held the balance of power during much of that period. The other point to emphasise is that, because we and everyone on the crossbenches or in the oppo-

sition parties are now not in a position to prevent anything if all government senators vote to make it happen, responsibility is put fairly and squarely on every single individual coalition senator, because any single coalition senator could stop this abuse of process and could stop this continual contemptuous treatment of the Senate. It is not possible anymore for government senators to hide behind parties like the Democrats on the crossbenches and let us do the government's dirty work; they have to do it and they have to stand up and be counted every single time.

I find it quite extraordinary that we do hear comments from time to time, including quite recently, by some government senators actually complaining about how short the time frame is to consider some of this monumentally important legislation that the government is trying to force through over the next two weeks. The fact is that each one of those individual senators who have complained—and it has not just been Senator Joyce; it has been others—could have had the courage to stand up and simply say in the Senate, 'I'm going to ensure that this piece of crucial legislation gets some proper scrutiny.' They could have done that every single time and, in effect, their vote alone could have enabled that to happen. Whilst this new dynamic in the Senate is leading to tragic outcomes for the people of Australia, it is also putting the spotlight of responsibility fairly and squarely on every single individual member of the coalition in the Senate.

This motion before us, which extends the Senate sitting hours on Thursday of this week and next week and also makes us sit on Friday, is being justified by the government saying: 'We have to have enough time to consider this legislation. It's important; we want to have proper debate.' I am sure the government has said and will say, 'How can you be against having extra sitting hours

whilst also complaining that there's not enough time for legislation to be debated?'

There are two simple responses to that. Firstly, as I have said on behalf of the Democrats many times in this chamber, we should not be having an end-of-session rush to push through legislation, with late sittings every night of the week each time around. We should be actually sitting the extra days, having extra sitting weeks, so the debate does not happen in the dead of night, so the legislation does not happen via exhaustion and so it does not involve unacceptable working hours, particularly for staff and advisers around the parliament.

The fact is that the number of sitting days in the Senate this year has been one of the lowest that a government has scheduled for decades. And the number of sitting days scheduled in the sitting program for next year for the Senate is about one or two days more than this year. So we have a government that is quite consciously and deliberately scheduling record-low numbers of sitting days and that then, come the end of a session, has the gall to say, 'We've got to sit longer hours and sit into the night every night of the week because we haven't got enough time to deal with this legislation.' It is blatant hypocrisy and it shows up the shallowness of the government's argument.

Secondly, it is not just a matter of having enough time to debate legislation; the simple fact is that, with the key legislation that is scheduled for debate this week, it is a matter of not having had enough time to scrutinise it. Such debate that happens is then, by definition, not as fully informed as it otherwise would be. And it is a simple fact, which has been widely acknowledged by plenty of observers outside this chamber, that the amount of time that has been allowed by the government for debate on the crucial pieces of legislation before us this week—the work-

place relations laws and the terror law—has been grossly inadequate, farcically inadequate. This is incredibly complex legislation that is incredibly important to the lives of every Australian and the fundamental principles of the rule of law, but it has been deliberately given grotesquely short time frames for Senate committee examination.

Of course, that does not just mean that there is not enough time for senators to look at the legislation; it means that there is not enough time for the community to look at it, for people with expertise and knowledge far greater than any of us here have to look at it and provide feedback. The same applies to the far-reaching welfare laws, which will not be debated till next week: the committee was nonetheless forced to produce its report by today.

You could have hours and hours to debate legislation, but if you have not had enough time to scrutinise it in the first place then you are really not doing your job properly, and that is the bigger point to make. That is the bigger concern the Democrats have, and that is why every member of the government in this Senate is culpable in the dereliction of duty involved in allowing such monumentally important legislation to be brought on for debate before there has been an opportunity for adequate scrutiny by the Senate and its committees and by the public and the community. And those people will be affected by it.

It cannot be said often enough that the debates we have in this chamber on legislation in areas like workplace relations, terrorism or welfare are not just point-scoring opportunities. They are not there just to see who can win the debate, who can get public support or who can improve our standing in the polls. They end with votes that decide the law of the land, and the law of the land has a direct impact on millions and millions of Austra-

lians. That is what we are doing here, first and foremost. That is our core business as legislators—deciding what the laws that impact on every Australian will be. The fact that we are doing that in such an inadequate way demonstrates to me a dereliction of duty, and it is a dereliction of duty that every single coalition senator has to bear responsibility for, because on their own any individual senator could have stopped it from happening but no-one chose to do so.

That is the broader picture surrounding this motion. As I said, the Democrats believe we should be having extra sitting weeks rather than extending the sitting hours to late in the night to address the fact that we have not had enough sitting days in the first place. It is also particularly inappropriate in a context where the legislation that is going to be debated late in those nights has not had the opportunity to be properly examined by Senate committees in the first place.

It all comes back and points to what I believe is probably the biggest deceit by this Prime Minister—certainly, since the last election, it is the most blatant, clear-cut dishonest statement that he has made—and that is his promise that he would not misuse his new control of the Senate. He has misused it. He has abused it. He has done it continually, he has done it comprehensively and he has done it in monumentally irresponsible ways. This motion is only a small example of it, but it points to the much wider atrocity which goes to the core of that blatant broken promise of the Prime Minister. If there is one thing that elections are about more than anything else, it is about electing people to the parliament and it is having those houses of parliament operate in a way that shows respect for the democracy that we all value. The Prime Minister has not done that. He has breached his promise not to misuse his power and every individual government

senator has allowed him to do it, and they continue to do so, and that is a tragedy.

Senator LUDWIG (Queensland) (12.51 pm)—I did not want to take up too much time in this debate—I think it is important to get onto the legislative program—but it is important not to let this situation pass without comment. This is again another abuse of the Senate by the government, in that we do not have before us a clear indication of what bills we are required to deal with before the end of this year.

It is usual practice at this time of year—and I have said this a couple of times but it deserves to be said again in the Senate to the government—for a legislative program to include for not only this week but also next week, in some indicative form, which bills are required before the Senate rises at the end of this year. We also need to know which bills are required to have exemption from the cut-off and which bills the government may have under its arm but has not yet produced that it requires for a particular urgent reason before the end of the year. There also needs to be an indication which bills on the *Notice Paper* the government requires for particular reasons and for those reasons to be particularised so the Senate can utilise the hours that it has effectively.

In this instance, the government has reverse engineered. It has extended the hours without telling the Senate what work it requires it to do. That is the problem with the motion before us. It provides for an extension of hours without trying to tie those hours down to bills that are required to be dealt with before the end of the year. That means that the Senate will take time to deal with legislation in a considered way, and whether that helps, by the end of the fortnight, to deal with the bills required to be dealt with is a matter that remains unseen, because there is no way of knowing which

bills will be required. If the government says it requires five or six further bills, it will depend on the nature of those bills as to whether they will require extended second reading debates and committee stages, whether that is achievable or whether we require additional hours on top of those planned.

The government has been unhelpful in this period by not ensuring that the legislative program is kept within reasonable confines. What is clear, though, is that the government is struggling to manage its own legislative agenda. That is why, I suspect, it has proposed these hours in advance. In the last sitting period it extended the hours on the Tuesday night. This time it has proposed sitting on the Fridays and Thursday nights. So in the last two weeks of sittings we will have extended hours on Tuesday night, Thursday night and an additional sitting on Friday.

The opposition is always sensible about these matters and does not stand in the way of a sensible extension of hours to deal with the legislative program that it is faced with. But we are not faced with a program. We are faced with two bills that have been put on the *Notice Paper* for this week, the Workplace Relations Amendment (Work Choices) Bill 2005 and the Anti-Terrorism Bill (No. 2) 2005. We do not know if there are other bills that are required to be dealt with this week or next week. But this is not the only abuse by the government since 1 July. What is really noticeable is what was said five days before 1 July:

I'm not going to allow this unexpected majority go to my head. I want to make that clear, I'm not going to do that.

Because that would be disrespectful to the public, and it would disrespect the robust nature of the Senate, even with a Coalition majority.

That is what the Prime Minister said about gaining control of the Senate post 1 July.

Since then, we have experienced a number of things. The release of the parliamentary sitting schedule illustrates a disturbing trend in that it appears that the decline in Senate sitting days is being reinforced. In 1996 the Senate sat for 71 days. In 2006 it will sit for 56 days. But, when you look at the process, you see that the government packs in additional hours in the last two sitting weeks. There were also additional hours packed in during the last sitting period. That effectively expands the number of sitting days by other means.

Recently we saw how the government tried to force through a committee referral after 4.30 pm on a Thursday. That would have seen the Anti-Terrorism Bill (No. 2) 2005 referred to a committee for one day. Not only is the government trying to drive down the number of sitting days to ensure that there is not scrutiny but it is also attempting to ensure that the committee processes are not being dealt with or that they are confined so that there is not sufficient time to examine bills. In the instance of the Anti-Terrorism Bill (No. 2) 2005, it was unsuccessful and it eventually agreed to what was the sensible position: a committee reporting date of today, 28 November, to ensure that there was at least some scrutiny of that bill.

When you look at what the government did with the Telstra legislation, you see that at the time all the focus was on Senator Joyce and whether he was on a green, a yellow or a red light. But the truth is that the legislation received only one day of inquiry, two days after the bill had been introduced. That is what this government is ensuring. It is closing down debate, ensuring that committees do not do their work and that, when committees do report, the committee stage is also closed down. To date, the government has used the gag and the guillotine. We are not even halfway through the sitting schedule this week and we have this motion re-

garding hours of sitting. But that is not the only thing. You would expect 'business as usual', as this government announced there would be prior to and just after 1 July, but it has not been business as usual.

As I have said, there has been a closing down of committees, a stripping of hours and a reduction in the number of questions that the opposition in the Senate asks at question time. The government has effectively ensured that there is less scrutiny of its front-bench during question time by allowing the number of questions to slip from the normally expected six or seven to four or five. That is completely unacceptable. This government is treating the Senate with contempt. We also see the exemption from the cut-off, which the government, because it has the majority, can now ignore. That is not to say that the opposition does not agree with those matters, but it would like to see a reasoned debate for urgency put by the government rather than a blatant disregard of that rule. What we do not see is a reasoned argument for urgency in those areas.

The government have resorted to the guillotine in the first six months post 1 July. I must say, I thought it would take them a little longer to get to that, given the comments that were made by the Prime Minister. In the first six months, not only have they gone to the guillotine, they have gone to the gag, they have reduced the number of questions, as I said, and they have ensured that the committee processes will not allow for the usual proper scrutiny. They tried to close those down, and they have been successful in part, as you can see from looking at the Telstra debate. This government are using their numbers not sensibly or in a considered way but in a very provocative way that not only treats the Senate with contempt but also in part may turn it into a sausage factory where the government simply demand that their legislative program be dealt with irrespective

of scrutiny and, some would say, the outcome.

As I said, I will not dwell on this. I said that it was important to get on to the legislative program and I will not take up hours in this debate speaking on this issue. But I will come back to it again and again if this government continues to abuse its Senate majority in such a way that there is not proper scrutiny of the legislative program, that there is not proper consideration of bills, that the opposition does not have sufficient questions to examine the government frontbench at question time and if it uses the gag and the guillotine to close off debates without ensuring that there is proper scrutiny and a proper committee stage. If that happens, I will again come back and make the point that this government is treating this Senate with contempt.

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (1.01 pm)—Can I say at the outset that the government's program has been on the record now for some time. On 3 August this year we circulated bills for the spring sittings. The list that I have states that bills marked with an asterisk are proposed for introduction and passage in the spring sittings, and that was circulated on 3 August this year. It is a comprehensive program. The government has never made any secret in relation to its reform program—in particular, in this fortnight, the passage of the industrial relations reform package, Welfare to Work and the antiterrorism bills, which are timely. There are other bills as well which the government needs to pass. However, to say that we have not made people aware of our program is totally false, because we have had it on the record now for some time. Indeed, as usual last week we distributed the program for this week, and that is what we normally do.

There has been criticism and we have been asked why we need the extra time. As I have said before, since 1 July this year we have seen the average government business time in a Senate sitting week reduced from between 14 to 16 hours to around 10. When you examine the time that the Senate has spent on procedural motions, you can see where the time has gone. Just on motions to refer matters to reference committees and suspension of standing orders, we have spent over 17 hours. That is well over a week's sitting of Senate time being spent on procedural matters. Even in this debate today about an hour has been taken up debating sitting times. We have a job to do. We are senators. We are elected to deal with the passage of laws for this country, and that is a prime role of the Senate and the other place. We have as a government been elected to put in place reforms and policies. We intend to do that, and that is precisely what this is about—ensuring that we can do that.

In relation to the sitting fortnight, I think 22 November was the reporting date of the committee for the workplace relations package. Today we will see the two reports on the antiterrorism legislation and also Welfare to Work. Of course the government will consider those reports. It is proper that it does. That is the norm. There is nothing unusual about that. In fact, if we did not set aside some time to consider those reports and any possible amendments, we would be roundly criticised. The program we have in place this week allows for an extensive second reading debate on workplace relations, it allows extensive time later in the week for debate on the antiterrorism package and it provides for consideration of the reports from the various committees that I have mentioned. That is entirely in order. There is nothing unusual about that.

I might touch on question time again. Since I have been in the Senate, which has

been for some time, whenever there has been a change in representation in the chamber it has had an impact on the structuring of question time. The government now has a majority in the Senate, and there has also been a change in representation by the minor parties, and that has been reflected in the number of questions. It has always worked that way. Since I have been in this place we have had a change in representation of various parties and entities, and that has resulted in a change of the structuring of question time. There is nothing at all at odds with precedent on that.

In relation to the reference of the antiterrorism package to a Senate committee, for the record I remind the Senate that when that was moved, I think in the last sitting fortnight, what was intended was that the matter would be dealt with by the Senate committee during the two-week up period. Due to procedures in place the vote could not be taken at that time. An amendment was moved by the Democrats. That had the consequence that that motion could not be dealt with at that time and we lost the opportunity of that two-week period. That was in the sitting fortnight previous to the last. Our intention, as I recall it—I was not here—was to provide two weeks of up time for that consideration. We have since remedied that by extending the time for reporting in relation to that antiterrorism package. We will have the committee report today, and we look forward to the receipt of that.

But in relation to this sitting fortnight, it is necessary to have these extra sitting hours if we are to get the job done. That is a fact. A prime role of this Senate and all senators who form it is to consider government legislation and deal with it. If we did not have this extra time we could not deal with that legislation and it would be left until February next year. Putting it off would clearly be a dereliction of the duty of the Senate. So these

extra hours are essential. Looking at the Senate's past practice, at the end of the year there always tends to be a logjam, if you like. What we are doing with this—and we gave notice of this motion in the last sitting fortnight—is dealing with it now rather than at the eleventh hour to avoid that last-minute rearrangement of times. In the past, the opposition and others have been the first to criticise us when we have done that so we are doing it well in advance so everybody knows where they stand. It is a thoroughly reasonable proposal and I commend it to the Senate.

Question agreed to.

**WORKPLACE RELATIONS
AMENDMENT (WORK CHOICES)
BILL 2005**

Second Reading

Debate resumed from 10 November, on motion by **Senator Abetz**:

That this bill be now read a second time.

Senator WONG (South Australia) (1.08 pm)—Labor opposes the Workplace Relations Amendment (Work Choices) Bill 2005 before the Senate. This bill is bad policy based on bad principles. Poorly planned and poorly executed, it epitomises this government's ideological obsessions and arrogance, and Australia's working families will pay the price. The Prime Minister and his supporters argue that this extreme workplace legislation will benefit the economy. They claim it is essential, even urgent. But in 2004 we did not hear a whisper of the extent of this extreme agenda when the Prime Minister fought that election directly on the economy—not one word about abolishing the no disadvantage test, removing the protection for penalty rates, overtime, leave loading and shift allowances with all the negative consequences for Australian families that that will mean; not one word about removing the setting of a fair minimum wage for the Indus-

trial Relations Commission; and not one word about abolishing unfair dismissal protection for employees in workplaces of up to and including 100 staff.

The fact is, it was only after it found out it had total control of the Senate and got a sudden rush of blood to the head that the government decided to push these 1,252 pages of legislation and explanatory memorandum through this parliament and decided to ram through the most contentious extreme rewrite of Australia's industrial relations system in our nation's history—a system that Australians and their governments have built over the last 100 years to serve and reflect the values and needs of our community and our economy.

The Prime Minister wants to turn back the clock. Instead of looking to the future of Australia's workplaces, he wants to drag us back to the past—back to the 19th century when working Australians begged instead of bargained. This Prime Minister is dragging us into the American social model, pitting Australian against Australian and recasting the Australian work force in the mould of the American working poor. This Howard government has turned its back on working Australian men and women. It will strip protection from employees and strip fairness out of our workplaces. This legislation will trap even good employers in a race to the bottom on pay and conditions and it will shatter the Australian belief that working people have the right to negotiate their working conditions and the price of their labour from a position as equals, not beggars.

It will do all these things with indecent haste. Even when this government first embarked on its attack on Australian workplaces in 1996 with Peter Reith as minister, we had a two-month inquiry and more than 170 amendments. Now with total control of this Senate, John Howard's government

shows what contempt it really has for democratic processes and effective law making. But, worse, it shows what contempt it has for the Australian people. This Senate was granted a one-week inquiry—with no hearings outside Canberra—into a bill proposing the biggest legislative change to the laws governing our workplaces and our lives in more than a century. This is outrageous, scandalous and obscene, and it is a testament to the arrogance of this government since it obtained control of the Senate.

Placing an unreasonable time limit for the inquiry into the more than 1,250 pages of almost incomprehensible legislation—one of the largest amending bills ever considered by this parliament—simply illustrates the total disregard this government has for appropriate and considered scrutiny. We on this side believe it is completely unacceptable for this bill to be rushed through the parliament before we have had an opportunity to properly examine its provisions. Frankly, the Australian people deserve better. The Australian people deserve that their senators and this parliament properly consider such radical legislation and properly consider a bill that has wide-ranging and retrograde implications for working Australians and Australian families.

In the very limited time in which the Senate committee has had the opportunity to examine this bill, senators found a range of problems which will have profound implications for the operation of this bill and which will have serious and ongoing impacts at the individual workplace level. The nonsense that this legislation is adequate and ready for implementation is shown to be complete rubbish by the fact that the government's Senate majority report itself makes recommendations on a range of matters, including that outworker provisions and state awards be protected from unscrupulous employers; that prohibited content be limited to anti-

AWA clauses only; that four weeks annual leave for full-time employees be guaranteed—it has taken a government Senate majority to actually alert people to the fact that the Prime Minister's guarantee was no such guarantee; and that full-time employees working the hours required of them be paid for at least 38 hours per week, irrespective of whether the hours required average less than 38 hours a week.

The nonsense that this legislation is adequate and ready is demonstrated by the fact that the government itself has indicated that it is considering amendments, amongst other things, on the sanctity of public holidays like Christmas Day, Anzac Day and Easter, and provisions relating to the capacity of businesses to restructure themselves to avoid unfair dismissal obligations. I note that the Prime Minister's indication of what he wants to protect on Christmas Day does extend to making sure that people might not get the sack for not turning up on Christmas Day but certainly, if the newspaper reports are correct, does not preserve penalty rates for working on Christmas Day.

All of these facts demonstrate the absolute weakness of this bill. For the government itself to be flagging amendments to its own legislation at this late stage of the legislative process—the commencement of the Senate parliamentary debate—is ludicrous. I call on the government at this point in the process to come clean with the Senate and come clean with the Australian people. Just how many amendments are you proposing to move, and when will the Senate see them? Tell us now—now that this debate has actually commenced in the Senate chamber.

The fact is that the government have brought this shambles upon themselves. In the limited time available, the Senate inquiry was able to shine a light on a range of problems the government will have to wrestle

with. The other thing I want to make a point about is this: if the government itself is still drafting amendments to its legislation, what other hidden problems still lie in the bill that will only become apparent when it is applied?

Let us turn to examples of some of the problems which were made clear before the Senate committee. The government have made a complete mess of the proposed introduction of the so-called single industrial relations system, with estimates that somewhere from 60 to 85 per cent of the country's work force will be covered by the government's changes. They call it a unitary system but it is anything but. It will leave anywhere from 1.5 million to four million employees outside the jurisdictional coverage of the government's changes. That will mean incomplete and inconsistent coverage across the nation's workplaces. It will only create confusion and regulatory difficulties for employers. If you look at the transitional arrangements, the situation only gets worse. Under the government's changes, the transition arrangements for moving state awards and agreements to the federal jurisdiction are so complex that many employers and employees will be unsure which jurisdiction applies and what their rights and responsibilities are. Again this will only add confusion and complication.

And the decision to give the minister for workplace relations—no matter who occupies that position—executive power over what can and cannot be included in agreements is extraordinarily bad policy. It represents an unprecedented direct interference by a minister in agreement making in Australian workplaces. Unprecedented ministerial intervention will replace a balanced system, the strength of which was that it was independent and kept politicians at an arm's length from work arrangements and disputes.

The government's approach is neither sensible nor efficient, and it underlines the true nature of this legislation. Despite its name, its true nature is the removal of choice and fairness. The fact is these changes are all about enforcing an extreme ideological agenda in every workplace in the land.

As the inquiry heard, no-one outside of the government and some business and employer lobbyists is convinced there is a sound economic case to support these extreme proposals. But the Prime Minister continues to say it is an article of faith. Indeed, a submission to the Senate inquiry from 151 leading Australian industrial relations, labour market and legal academics confirmed the government's failure to explain or provide evidence as to how national productivity and workplace productivity will be improved by this legislation. All the evidence on the economic impact of these changes points in the opposite direction—the opposite direction to the government's mantra. It points in the direction of lower productivity and lower wages for Australian workers. The Prime Minister's article of faith is an insufficient reason to introduce legislation this extreme, particularly when the evidence reveals it is an article of bad faith.

But still we have this government peddling the same old misleading idea that all individual employees on individual workplace agreements do well. When Professor Ellem issued a report card on the government's industrial relations policy in June this year, he observed that individual contracts such as AWAs tilt the balance firmly in favour of employers, because management can unilaterally determine the pay, working hours, duties and employment conditions of employees.

The reality is that many, mostly non-managerial, employees on AWAs have a much harder time of it than employees on

collective or enterprise agreements. ABS figures show that average full-time adult non-managerial hourly ordinary-time earnings for those set by collective agreement is higher than the average set by individual arrangement. Those same figures show that average weekly earnings for employees on AWAs went backwards between 2002 and 2004 by \$110 a week, while over this same period employees on collective agreements had a wage increase of \$46 a week. The empirical data shows that, for non-managerial staff, employees on AWAs work six per cent more hours and they earn two per cent less than those on registered collective agreements.

Under the government's focus on individual agreements, we have seen women in non-managerial positions on AWAs earning an outrageous 11 per cent less than women on registered collective agreements. Women on collective agreements received 90 per cent of the hourly pay of men on these agreements, while women on AWAs received 80 per cent of what men on AWAs earn. So, in the 21st century, the Howard government wants to introduce a system that will wind back the progress we have made in this country towards pay equity. That is beyond deplorable. This evidence flies in the face of the government's lie that women will benefit from these extreme changes. They will not. These changes will be harder on women and harder for families. We see the same trend for casual and part-time employees. Casual employees are paid on average 15 per cent less than those on collective agreements. Part-time employees on AWAs are paid 25 per cent less than their counterparts on collective agreements.

Given the practical experience on the ground of what happens under the sorts of changes this government wants to make, we should wonder why it is that the government is pressing ahead with its extreme agenda.

We should also look at the Western Australian experience, which proves the point. In Western Australia, from 1994 to 1996 around five per cent of employees had agreements that provided below award rates in their agreements. By 1998, this had increased considerably so that around 25 per cent of all agreements registered with the Western Australian Commissioner of Workplace Agreements had an ordinary rate of pay that was below the award rate.

As the group of 151 academics observed in their Senate inquiry submission, during both periods the majority of agreements had inferior penalty rates than in the award. They stated as follows:

... in most cases where overtime or penalty rates had been reduced, they were abolished altogether; that is, in the first and second periods, penalty rates were abolished altogether in 54 per cent and 44 per cent of cases respectively, and overtime rates were abolished in 40 and 44 per cent of cases respectively.

This experience hurt the Western Australian economy and it hurt Western Australians. Under the Court-Kierath industrial relations system, labour productivity fell to an average annual growth of 3.81 per cent compared to 6.29 per cent under the current Gallop state government's industrial relations system. In 2003-04, according to the Gallop government, labour productivity in Western Australia increased by nearly 10 per cent over the previous year. Western Australia saw employee pay and conditions stripped away and also a decline in labour productivity. It was bad for working families, bad for business and bad for the economy. This is the model John Howard wants for all Australians.

I want to turn briefly back to the issue of the effect on women. One of the most striking elements of the evidence presented to the Senate committee was the effect on women. It was clear from the evidence before the committee that there would be dire conse-

quences for gains made for working women such as paid maternity leave. These real concerns were raised not just by trade unions and academics but by the government's own appointee Ms Pru Goward, who expressed real concern as to the effect this system would have on the gains women had made, particularly paid maternity leave.

We on this side wonder how it is this government can call itself a champion of Australian families and say that these changes are good for families when the overwhelming amount of evidence presented to the Senate committee clearly demonstrated that women will be worse off under these changes, that pay equity will go backwards and that paid maternity leave is under threat. The reality is Australian women understand that these changes will make their lives harder. It will make harder the lives not only of Australian women but of many employees, and it will push many Australian families over the edge.

We on this side of the chamber believe it is an act of bad faith and legislative folly for the government to be rushing this bill through the parliament. The government's industrial relations changes are not sound, economically based reforms, and they certainly are not sound, socially based reforms. They are ideological, extreme, unfair and divisive and they show just how out of touch the Howard government has become with Australian values and the concerns of the Australian people.

The government's proposed changes have little to do with better wages, more productive workplaces and a more productive economy. They will widen the gap between the well-to-do and the down at heel. They will push more working people into poverty and despair. They will make sure every working Australian feels the chill of economic insecurity. That this government thinks this is productivity shows once and for all that the

Howard government can only conceive of growth being based on exploitation. But the Australian people know that true prosperity is founded on fairness and Australians know that there is nothing fair about this bill. If there is one word to sum up this bill, it is that it is unfair. Labor opposes this bill.

Senator MURRAY (Western Australia) (1.26 pm)—The Democrats agree with Labor's minority report statement on the 678-page Workplace Relations Amendment (Work Choices) Bill 2005 where they said:

The decision to hold a one-week inquiry into a bill proposing the biggest legislative change to the law regulating workplace relations in Australia in over a century, is a subversion of the democratic process and effective law making.

The Democrats were therefore unable to give the bill the full response it deserved. Nevertheless, my very capable adviser Kellie Caught and I banged out a lengthy Australian Democrats minority report in a rush over three days. I intend to repeat some of our observations made there.

The disregard for the Senate as a house of scrutiny may appear remarkable from a government whose Prime Minister promised to use its numbers wisely and not provocatively. On that basis you would expect the heady hubris of numbers would not get in the way of good law making, but it is apparent the Prime Minister was saying what the Australian public wants to hear and not what he believes. He intends to use his power decisively and deliberately. He wishes to get it over with precisely because his government is using the power of the state to have its way to attack the institutional foundations of the workplace and against ordinary Australians and their way of life. Once the Work Choices bill has passed then he can use long political acumen and experience to implement it and to shore up its defence.

The Democrats oppose the Work Choices bill. As Dr Cooney succinctly said to the committee:

It is overly complex, too punitive, one-sided and interventionist.

From the industrial onanism of the new greenfields agreements to the legal ways contrived for employers to back out of agreements, this critical legislation introduces fundamental changes to the industrial relations system which will have a major impact on Australians and their families. The legislation will try to transform six systems into one against the wishes of the states. Unlike other transference of powers to the Commonwealth under corporations and tax law, this is the first time in the history of the Federation that we are faced with a hostile takeover of state systems by the Commonwealth.

If there is one good consequence arising from the Work Choices bill it is that it will force all political parties to recognise that the Work Choices bill is a radical change. Each party will have to reassess their vision and solution for relationships at work in the 21st century. This is because with the Work Choices bill the Liberal and National parties are assaulting the cultural, economic, social, institutional, legal, political and constitutional underpinnings of work arrangements in Australia. Occasional bitter and protracted fights over the direction and nature of law and regulation governing work and industrial relations in Australia do not contradict the broad social, political and governmental consensus there has been in this area. The broad consensus I refer to has been that the standards of an advanced, progressive, First World liberal democracy should apply in Australia with respect to wages and conditions and the organisation and management of work.

Much as conservatives and organised capital dislike the movement, there was nevertheless a broad acceptance that the organised collective expression of labour rights through the union movement should be respected and supported. That broad consensus accepted that our workplace law should reflect the social contract that growing national, individual and entity wealth should be accompanied by rising living standards and a comprehensive safety net for the disadvantaged and powerless in our society. Low or inadequate wages were to be supported by a sufficiently comprehensive welfare system to ensure family stability and sustainability.

Although conservative Australian federal and state governments have been slippery on these matters, it was expected that our laws should reflect the commitment made as a result of our ratification of international conventions and treaties governing the rights of the working population. That broad consensus meant that wages and conditions of work should bear in mind the family more than the individual; that governments and parliaments should determine law and regulation, but that enterprises, unions and tribunals should determine the detailed content and decisions of workplace relations; that independent specialist tribunals rather than the courts were preferred for conciliation, arbitration and determination; that collective labour and collective capital had primacy over individual arrangements; that statute was the dominant determinant of collective arrangements at work and common law the dominant determinant of individual arrangements; that industrial relations should be a multiple federal system and not a single national system; that it was justifiable to subordinate the economic to the social in the workplace by ensuring the living standards of the worst-off should be consciously and deliberately raised; and that health and safety and compensation for acci-

dents or negligence should be a primary feature of workplace law.

Control of the Senate allows for the exercise of authoritarian conservative power. The coalition are determined to fundamentally change the nation. It is why I have consistently said that this is going to turn into a battle of the government against the people. In that battle, the Prime Minister has the cards heavily stacked in his favour. He and his ministers have been successfully using doublespeak to conceal the true nature of these changes. Small 'l' liberal words like 'choice', 'flexibility' and 'freedom' disguise the heavy authoritarian micromanagement and restrictions on collective labour—the unions—and the dismantling of the architecture and infrastructure of our workplace relations system.

The government have already shown they will use all the financial and other resources of the state to advertise and sell their policy. Capital, particularly big business and employer organisations, support the heavy rebalancing of a system designed to lift the profit share at the expense of the wages share and to give collective capital—the market—primacy. For those looking for strong media opposition, big business media owners and shareholders have already voiced their support for Mr Howard's proposals. The counterargument will need to be put out through advertising, traditional media and other mediums but, in resource terms, opponents of the government's policies are minnows to a shark.

Industrial relations concepts and law are already complex and not well understood. For most Australians, full understanding will dawn only when employers start to exercise their new powers detrimentally. That is not to forecast that everyone will be affected equally or negatively. Labour that is well represented and resourced, or in short supply,

will find itself naturally quarantined from negative effects. The coalition government can rely on most Australians not grasping what is happening until long after it has happened.

Evidence to the committee made it clear that the full effects of the legislation will not be felt until after the next election in late 2007. Not only will 25 to 30 per cent of all workers remain under state systems until then, but the transitional arrangements and the continuing validity of many existing agreements that only expire in 2008 will mean that, for large numbers of Australians, the effects will be felt only after the next election. That is what Mr Howard is counting on—that and the expectation that the coalition will remain in effective control of the Senate for two more elections, after which it will be very difficult for these changes to be reversed.

In a nutshell, the fundamental changes Mr Howard's government seeks to introduce will be the antithesis of many of the previous consensus items that I outlined earlier. We will see a national system forced onto resistant states; the individual fostered over the collective; an individual wage and conditions fostered over the family wage and conditions; disputes going to the courts instead of the tribunals; capital and business given freedom; and labour and unions' rights and freedoms heavily restricted.

Unwisely, unprecedented ministerial intervention will replace a sensitively balanced system where politicians were kept at arms-length from work arrangements and disputes. We will see the safety net shrunk by three-quarters, the withering away of the award, the decline in real terms of the minimum wage and the loss of most statutory conditions.

From hostile coalition questions to academics and union officials during the in-

quiry, it has been obvious that there is also a strong political motive in play. The coalition are fierce political competitors and will do whatever they can to weaken their main competitor, the Australian Labor Party. Consistent references in parliament make it clear that the coalition see the union movement as politically synonymous with the Labor Party. Whatever the legitimate criticisms that can be made about the relationship of parts of the union movement with Labor—and we have made criticisms ourselves—it is immoral to target the interests of working Australians for political gain.

The startling thing is how economically reckless the coalition are being. Their economic argument is faith based but it boils down to this: lower wages, far fewer conditions and more power to employers all equal more jobs. That is the mantra, endlessly repeated in various ways but unsupported by credible empirical evidence. If it deserves to be taken seriously as a proposition, it needs to be supported by specific evidence. The need for further industrial relations reform might indeed be apparent, in general, but the merits of this specific proposal have not been persuasively argued.

The Australian Democrats have unfavourably contrasted the coalition's GST and new tax system with the coalition's unconvincing workplace relations campaign. The GST was the centrepiece of the 1998 election campaign. In contrast, the coalition's radical industrial relations agenda was a sideshow in the 2004 election, hidden by the interest-rate smokescreen. Very detailed government documents argued the case for the GST and the new tax system, complete with all the modelling, tables, graphs and cameos that were necessary. In contrast, this radical industrial relations assault on Australians' working lives got a seven-page announcement in May and has been lightly amplified since.

The GST was agreed to and supported by the states. This industrial relations package is opposed by them. The GST's economic and financial benefits were credibly contrasted to a failing federal-state funding system. In contrast, the coalition agree that our present IR system is not broken and that it makes a very positive contribution to Australia's economy and society. The coalition agree that Australia now has lower unemployment, lower interest rates, higher productivity, higher real wages and very significantly lower levels of industrial disputation than in the past. They agree the system works well overall. Yet amazingly, the government propose to trash the current Workplace Relations Act. On the evidence before me, the Work Choices bill is likely to threaten our economy, productivity and society—and for what?

I would be derelict in my duty if I merely criticised the new coalition policy without offering the Australian Democrats' alternative. The Australian Democrats believe that, vital as it is, work is not just about economics, productivity, efficiency and competitiveness—it is a fundamental feature of our nation state as a society, our way of life and our place among nations. The Democrats recognise that Australia has to keep reacting to economic, trade, technological, domestic and global realities. We recognise that society, enterprise and work are continually changing. We believe that changes to our system are necessary, but they should be contiguous and in continuity with our social and cultural heritage and our values. And foremost among those values is the 'fair go' principle.

The Democrats workplace vision requires that, to make it happen, this vision should be negotiated between Commonwealth and state governments, industry, union and employee representatives. The Democrats support and propose the following workplace relations system. We believe we should have a unitary,

single national industrial relations system that is negotiated between the states and federal government to provide simplicity, common rights and obligations, and to improve efficiency, domestic and international competitiveness and productivity.

The Democrats support a well-resourced national, independent workplace relations regulator to properly regulate and oversee a national unitary system. Other sectors of the economy have regulators like ASIC, APRA and the ACCC—and so should work arrangements. We support a strong, independent well-resourced and principled tribunal in the Australian Industrial Relations Commission. This umpire must facilitate agreement making at the enterprise, as well as overseeing the industry-wide award system. It must conciliate, arbitrate and facilitate mediation in specified circumstances. It must settle industrial disputes. It must maintain the minimum wage. In doing so, it must take into account the interests of the unemployed, protect the interests of low-paid workers and the disadvantaged, and protect small employers in a weak bargaining position. We believe that the capacity of the Industrial Relations Commission should be improved, enhanced and strengthened, not weakened.

The Democrats support the 1996 Workplace Relations Act, as amended up to 30 June 2005. While this act could be improved, we believe that overall it works well and does not need radical change. We believe the federal system as it currently stands should be left intact with only moderate change as the need arises. The Democrats support genuine bargaining in good faith and a genuine safety net, underpinned by an award system that can be altered through the Australian Industrial Relations Commission. The Democrats support collective and individual agreements, including Australian workplace agreements as they are at present. However, AWAs must be underpinned by the safety net

of a no disadvantage test against the award, negotiations must be genuine and there should be mechanisms to ensure that employees are not coerced. We support tightening the current AWA system. We do not support the radical loosening that is occurring.

The Democrats support freedom of association and the right to join a union or employers' organisation without duress or compulsion. We support collective bargaining as an inalienable right and the legitimate role of unions in protecting the interests of workers who wish to be represented by them. We support the right for all employees to be protected from unfair dismissal as tightly defined in the federal act, not as loosely defined in the state acts.

In trying to quell the genuine concern of the public over these industrial relations changes, the government often draw a comparison between their 2005 plan and their 1996 proposals. They say the strong concerns expressed then were unfounded and that 'Australians clearly benefited with more jobs, higher wages and a stronger economy'. In the Prime Minister's words, 'The sky did not fall in.' The sky did not fall in because of the intervention of the Australian Democrats. The reason the 1996 reforms worked is due to the Democrats's success in moving 176 amendments that ripped the ideology out of that 1996 package and made the law socially acceptable while keeping it economically effective.

It is a nonsense to suggest, as some do, that industrial relations have stood still since then. No fewer than 18 significant amending bills, on my count, have passed through the Senate since then. We Democrats have used our balance of power and our honest-broker role over the last nine-plus years to pass sensible law changes, often after moderating the original aggressive proposals. Although we pride ourselves on not being beholden to

unions or business, we have been sympathetic to the legitimate and practical needs of both. We have operated on the values and principles of a progressive liberal democracy, and those values and principles have stood us in good stead. As a result, the Democrats can rightly claim to have played a key part in ensuring that federal workplace relations law has made a major, positive contribution to Australia's economy and, importantly, to Australian society. Australia now has lower unemployment, lower interest rates, higher productivity, higher real wages and very significantly lower levels of industrial disputation than in the past.

The Democrats are not opposed to industrial relations reform, as long as it is moderate, steady, considered and fair, and it delivers productivity efficiency and competitive gains that accord with the values and goals of a civilised, First World society. The Democrats support an industrial relations system that operates within a framework that takes into account social impacts as well as economic considerations. In this context, we support a system that provides for the orderly regulation of employment practices in a way that maximises and balances productivity, jobs growth and job security while ensuring fair and just pay and conditions and treatment. We support a system that builds on the strengths of Australian values: the fair go and an egalitarian society that fosters equality, community and mateship—one that rewards enterprise and having a go.

The Australian industrial relations system has been built on a foundation of social justice and fairness, centred around a safety net of pay and conditions to protect the most vulnerable in our society. This foundation has fostered our belief in an egalitarian society. I remain unashamedly of the view that the basic wage and conditions must allow a decent living standard for a family. This task must not be left to the welfare system, whose

safety net can never fully compensate for a family standing on its own feet through work.

It is the Senate's duty to make every effort to address injustices, anomalies, mistakes and unforeseen consequences in the bills before us. We cannot just vote against a bill without trying our best to effect change. In the three short days since the Senate committee report on this legislation was handed down, the Democrats have constructed about 40 pages of draft amendments. It is the least we could do in the time available. It is a rushed job and it is too limited a response, but it will be our best effort to ameliorate this legislation. This legislation is messy. It is unfair. It is unAustralian. It is unwise. It will be economically ineffective and socially harmful. We will move key amendments, but the Democrats will oppose the bill outright.

Senator SIEWERT (Western Australia) (1.45 pm)—I rise today to speak against the passing into law of the Workplace Relations Amendment (Work Choices) Bill 2005 and to recommend that it be thrown out. This legislation is flawed. It is full of unintended consequences and loopholes. It is all bad, and it has no redeeming features. As I said, I do not think we should support it. This legislation fails the government's own test of fairness, simplicity and choice. The bill has unfair consequences for many in our society. It makes the industrial relations system in this country far more complex and removes choice for hundreds of thousands of Australian workers.

The clear intention of this bill is to lower the minimum wage, to put downward pressure on wages for many other Australians and to remove their capacity to bargain effectively. It hands greater powers to employers, undermines unions and collective bargaining, has significant implications for safety and will impact most profoundly on the already

vulnerable in our society. It also contravenes a number of international conventions to which Australia is a signatory. The Greens believe this is ideologically driven reform that has reckless disregard for the impacts on our community.

The manner in which this legislation has been unduly rushed is breathtaking, especially given its far-reaching implications for the daily lives of millions of Australian workers and their families. There has not been sufficient public scrutiny of this complex legislation, despite the government's claims, thus limiting the opportunity for detailed analysis and submissions. Given the number of contradictions, loopholes and unintended consequences that emerged during the short time the bill was before the Senate Employment, Workplace Relations and Education Legislation Committee, the only logical conclusion that we can draw is that the drafting of this complex legislation was also rushed through on an irresponsible timetable. It is certain there are as yet undiscovered flaws in this legislation.

While it is our belief that this legislation is fundamentally flawed and should be rewritten, should the government continue to blindly pursue it then there are a large number of amendments required to address the flaws, loopholes and unintended consequences discovered to date. We will be tabling some amendments. However, I reiterate that amendments cannot make a flawed piece of legislation anywhere near satisfactory, but they may address some of the more disastrous consequences.

The bill is based on a number of premises, some of which are related to productivity and the skills shortage. Yet the case that the changes are required to increase productivity has not been made. There are indications that there may be short-term productivity gains but that these will be far outweighed by the

longer term negative impacts. There is no hard evidence to suggest that productivity will increase under these reforms, with the Department of Employment and Workplace Relations relying on dubious economic modelling and ignoring relevant international studies presented to the Senate committee that has evidence to the contrary. The current skills shortage is supposedly another incentive for this legislation. However, the bill specifically addresses only a small amount of the areas needed to be addressed in relation to the skills crisis facing this country. Those currently addressed are school based apprenticeships, and there have been some piecemeal comments on vocational training and education. Shorter and more uncertain employment will potentially exacerbate existing skills shortages. There is an ongoing underinvestment in training and declining on-the-job training in this country. Changing career structures and increasing workplace insecurity mean that personal investments in education and training are more uncertain and are likely to deliver reduced returns.

Other changes under the Welfare to Work legislation make it more difficult to get training and to study. This bill is an attack on wages and, specifically, on unions—and particularly on the capacity of unions to represent workers and their ability to effectively bargain. It reduces their right of entry. This is ideologically driven change. This legislation will impact most significantly on the vulnerable in our society, particularly those already in lowly paid jobs, those with disabilities, Indigenous people, people moving from welfare to work—or, as I prefer to call it, welfare to ‘no work choices’—women, outworkers and those in casual and temporary work. This legislation is likely to lead to the development of a permanent class of working poor in Australia. The gender pay gap will increase, as it did during the period of so-called reforms in Western Australia during

the 1990s. As women are more likely to be in part-time and casual employment, they will also suffer more from the removal of allowances and penalty rates.

Young people entering the work force are disadvantaged by their lack of skills and experience, and they are less able to bargain and negotiate, as was clearly shown in the research I tabled in the chamber not long ago. Young people bargaining from a position of less power are willing to accept lower conditions and perhaps to trade away existing protections, and that will ultimately drive down conditions for everyone. Disadvantaged young people already on the outer are likely to be further marginalised, and existing problems will be made worse.

There was no consideration in the committee, or elsewhere, given to the likely impact on Indigenous Australians, who already face high unemployment and ongoing discrimination in the work force. The impacts of this legislation on the vulnerable and the disadvantaged need to be taken into consideration in the context of the combined impacts of Work Choices and Welfare to Work. In the real world, this will put people on welfare looking to enter the work force in the unenviable position of being obliged to take any work that they are offered. Unscrupulous employers will be able to use the threat of an automatic eight-week suspension to force them into unfair individual agreements with below-award conditions.

I also would like to consider the impact this legislation is likely to have on working families. Rather than improve the work-family balance, as claimed, many more families will find it harder to find family time as it becomes more difficult to negotiate working hours and the pressure to work unsocial hours increases. People will end up working longer, less family-friendly hours without the consolation of overtime or penalty rates to

make up for the family time they lose, thus allowing annual leave, weekends and other conditions to be negotiated away for higher wages in a climate of increasing job insecurity and tightening wages. That places under threat work conditions on which family arrangements, such as child care, holidays and parenting time are planned and managed.

Working mothers and family carers are less able to be flexible in their work hours and will be strongly disadvantaged by measures that encourage unsociable hours and allow employers to alter working hours at will. Previous parental leave provisions, including a right to return to work on a part-time basis, have been lost. This legislation explicitly excludes parental leave provisions for people in same-sex relationships, in contradiction with the many rules within the Workplace Relations Act 1996 that require nondiscrimination on the grounds of sexual preference, and in contradiction with the anti-terror legislation that is just about to come before this chamber. There has been no family impact statement made available by the government, and they have indicated they have no intention of providing one. I think the reasons for this are probably fairly obvious. I am glad that Unions New South Wales have done one. The results are not pretty.

The removal of 'fairness' as a criterion for setting the minimum wage, and a focus on purely economic criteria such as unemployment rates, will force the Australian Fair Pay Commission, the AFPC, to take an extremely cautious approach to increasing the income of the lowest paid workers. One would have to conclude that naming it the Fair Pay Commission is a cynical exercise in spin-doctoring, given that there is absolutely nothing that compels it to be fair. I put it to the chamber that either fairness should be added as a criterion for the Fair Pay Commission to take into consideration or the word 'fair' should be dropped from the title of what

would be better known as the Australian Pay Commission.

The minimum wage is bound to drop under this act, as it did in Western Australia during the 1990s, by up to \$50, when similar, though less harsh, legislation was introduced. The same thing has happened in New Zealand. There is no evidence to support the claim that pushing down the minimum wage will create more jobs; to the contrary, a 40 per cent increase in the minimum wage in the UK actually corresponded to an increase in employment.

Eliminating overtime and penalty rates will not increase employment but will in fact have the opposite effect, leading to longer and less sociable hours for potentially fewer existing employees. Higher hourly rates for overtime will no longer be an incentive to employers to manage their workloads or to hire more staff when demand increases. Workers currently in areas of skills shortages, with a good bargaining position, are unlikely to suffer an immediate drop in wages; however, they will become more vulnerable to future decreases when the economy inevitably slows down. In some industries it is likely competition will lead to a bidding war driving down wages, as experienced in Western Australia in, for example, the cleaning and security industries. The overall impact will be increasing wage dispersion, with the gap between those at the top and those at the bottom ever widening.

Using the minimum wage rate as an economic tool means that the lowest paid in our society bear a disproportionate burden of economic management. The minimum wage rate would have to drop substantially to have a noticeable impact on unemployment, which would then have the unintended effect of making unemployment benefits more attractive. Unemployment benefits would then be driven down. It would be a race to the

bottom and there would certainly be the development of a class of working poor.

The definition of 'standard working hours' as an average of 38 hours per week taken over an entire year does not comply with community expectations and leaves significant room for abuse and manipulation. The standard working week should be built around a community standard of 38 daylight hours, Monday to Friday, and appropriate compensation should be offered for those working unsociable hours.

I have mentioned in the chamber a number of times before that I am deeply concerned about the implications for safety in this legislation. I believe inadequate attention has been paid to occupational health and safety implications, with a failure to adequately acknowledge the role that collective bargaining plays in ensuring safe workplaces. Public safety is a major concern, as under the act industrial action is permitted only where workers can demonstrate immediate threats to their own personal safety. Concern for the safety of others, such as patients, schoolchildren or the general public, does not constitute valid grounds for action.

In the past, health and safety education and the negotiation of best practice has been taken on largely by unions, who are effectively excluded under this and other acts. The combination of decreasing work force skills and experience, greater work force turnover and increasing unsociable hours is likely to have severe implications for health and safety. The impact on the economy of time lost to health and safety problems versus time lost to industrial action is 20 to one. The minor gains this act may have in reducing the already lower number of hours lost to industrial action will be overwhelmed by the potential occupational health and safety costs.

This bill claims to encourage bargaining in the workplace. However, there are a number of provisions which work against this and actively discourage it. You cannot bargain effectively in a situation where there is demonstrably unequal power. This is a nonsense. Loss of the no disadvantage test is a disincentive to bargain, especially when employers can unilaterally terminate the bargaining period at any point, with the result that the worker falls back on the five minimum conditions—which are really four.

If you cannot reach agreement, there is no capacity to enter into arbitration to resolve the deadlock. Employers can manipulate the process to contrive a situation where they can end the bargaining process. There is a mandatory requirement for the AIRC to suspend a union's bargaining period once the employer has gone to the AIRC, which will enable an employer to contrive a situation to force an end to industrial dispute, hence further reducing employees' ability to negotiate. Workers can be forced back to work by the AIRC when they are not being paid. The way the legislation currently stands, your boss could stop paying you and lock you out and then the AIRC could force you to return to work for no pay.

Tell me how it is bargaining or not duress when an employer can require an employee to make an AWA as part of a condition of employment? How does it aid bargaining when AWAs are not even overviewed by the Office of the Employment Advocate anymore? Employers can get the benefit of a non-compliant AWA as soon as it is lodged. Employers can ignore the rules for AWAs and still have them operating.

The essential service provision in the legislation allows the minister to halt bargaining and require workers to go back to work, but the definition of 'essential service' is discretionary. Employer greenfield agreements

effectively allow employers to unilaterally declare workplace pay and conditions for a new venture without bargaining with anybody. The definition of a new business venture or undertaking is so broad as to encourage employers to quickly move out of existing arrangements by restructuring.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Workplace Relations

Senator WONG (2.00 pm)—My question is to Senator Abetz, Minister representing the Minister for Employment and Workplace Relations. Given that the common underpinning of the government's welfare changes and its industrial relations policy is lower income for both workers and welfare recipients, can the minister confirm that the government's approach to these issues is based on the American model: low wages and no protection?

Senator ABETZ—As I have had occasion to say in previous question times, the Labor Party policy in relation to employment and workplace relations is to have one million people unemployed. In relation to welfare to work, their policy is welfare to nowhere. Our policies are not underpinned as so falsely asserted by Senator Wong. Indeed, in the 9½ years that we have been given the government of Australia by the people of Australia, the workers of Australia have gained unparalleled real wage increases, to the tune of 14.6 per cent. During a period of 9½ years, that is what we have delivered, in comparison to the Australian Labor Party, who, under their Prime Minister Paul Keating, bragged about the fact that they had reduced real wages. Over 13 years, they managed a 1.3 per cent increase in real wages. Then they have the audacity to come into this chamber and assert that we somehow are supporting a low-wage environment. Indeed, everything we have done over the

past 9½ years has been to deliver genuine real wage increases for Australian workers.

Opposition senators interjecting—

Senator ABETZ—Can I say to those opposite that the pay packets of Australian workers speak so much louder than the political rhetoric coming from that side. The average Australian worker knows what he or she receives in their weekly or fortnightly pay packet. And they know that it has been going up in real terms, in stark contrast to that which the Labor Party was able to deliver them during those terrible 13 years of Labor government. When the trade union movement themselves had their feet under the cabinet table they were unable to deliver. For the poor workers that were represented by Senator George Campbell's union, the standard was eight days sick leave or personal carer's leave. We as a government are going to be legislating for 10 days leave, guaranteed by legislation—something that Senator George Campbell and his union were never able to deliver to workers. So let us not hear from those opposite that somehow we are not looking after the interests of Australian workers. We are going to be protecting by law standards that have never previously been protected by law for the benefit of workers.

In the time remaining, let me move to our welfare to work proposals. Senator Wong has suggested, in her question, that there is going to be a reduction in relation to welfare recipients. As I have outlined time and time again—and I sometimes wish that, even if the penny doesn't drop, the policy might drop for Penny, and it is this—it is a \$3.6 billion investment in those that are on welfare in Australia; a \$3.6 billion investment to assist Australians out of welfare into work. It is about time that the Australian Labor Party understood exactly what we were doing in this area, instead of coming out with their

false mantra about less money being spent. In fact, we are spending \$3.6 billion more to assist Australians out of welfare into work. On both those policy grounds we are delivering for the people of Australia. (*Time expired*)

Senator WONG—I have a supplementary question, Mr President. If the minister denies his government's agenda is based on the American model, can he explain why the Howard government is forcing Australians to accept jobs with lower pay and worse conditions? Why does the minister want Australians to turn on each other in an American-style dog-eat-dog competition for low-paid jobs?

Senator ABETZ—I have, on the odd occasion in this chamber, indicated that what our legislation is seeking to do is not follow any American model but, in fact, a model from the United Kingdom, from New Labour's Tony Blair. I remind Senator Wong of what Mr Blair said to the first trade union congress in 1997 about all the reforms of the Thatcher government. This is what he said:

We will not go back to the days of industrial warfare, strikes ...

and then he continued:

We will keep the flexibility of the present market—

Opposition senators interjecting—

The PRESIDENT—Order!

Senator ABETZ—He went on:

And it may make some shiver, but I tell you, in the end it is warmer in the real world.

Can I invite Senator Wong into the warmth of the real world that we represent on this side. (*Time expired*)

Economic Policy

Senator FIERRAVANTI-WELLS (2.06 pm)—My question is to the Minister for Defence and Leader of the Government in the Senate, Senator Robert Hill, representing the

Prime Minister. Will the minister advise the Senate as to why the Howard government is pursuing a continuous economic reform agenda? Are there any alternative policies to keep the economy strong and provide employment and opportunity to Australians and their families?

Senator HILL—I thank the honourable senator for her question. She is one who knows well the challenges of small business and the importance of economic efficiency to bring the rewards that families desire. It really does follow on from the first question and answer in this place today. The Labor Party is all about seeing threats and never seeing opportunities. That is the Labor Party of today. This government is all about providing more jobs at higher level wages—that is, real increases in wealth for all Australians. We can stand here proudly saying that because of our record.

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left will come to order.

Senator HILL—The record of Labor was a record one million Australians out of work. In 13 years of Labor government, they hardly achieved any real income increases for their constituents. By contrast, under this government, we have record high employment and record high returns to all Australians. It did not come about by chance; it came about because this government took hard decisions to cut back public expenditure, to reduce interest rates and to keep inflation low. Out of that, business had the confidence to invest and to grow, to provide jobs and to provide real net increase returns to its employees. That is what this government is about and that is the contrast.

Opposition senators interjecting—

The PRESIDENT—Order! Interjections on my left are too noisy and too frequent. I

ask you to come to order, particularly Senator Conroy and Senator George Campbell.

Senator HILL—The contrast of today is that, despite the fact that this government has been able to repay \$96 billion of Labor's debt, we still recognise, with all the savings and interest that flow from that, that there is still a need to do more if we are to remain economically efficient. This is not a static game. We live in a very competitive world, and the Labor Party should look abroad and they will see all of our competitors actually reforming in order that they can compete more effectively than with us. There is the contrast. You can either stop and get off the road to economic reform, which is what this Labor Party—in contrast to Mr Hawke—advocate, or you can continue to reform. In the same way as we had to reform and reduce income taxes and in the same way that we have had to introduce a range of economic reforms, we recognise that there is more that is necessary in relation to the workplace and industrial relations. We really believe that, under the new system, employers and employees will be better able to determine workplace conditions that suit their particular circumstances. Out of that, you get increased productivity, a more competitive economy and all Australians—

Senator Chris Evans—And lower wages!

The PRESIDENT—Order! Senator Evans, you should be setting a good example to your colleagues, not a bad example.

Senator Chris Evans—I am, Mr President.

The PRESIDENT—I do not believe so, and I hope you were not reflecting on the chair.

Senator Chris Evans—No, I was not.

Senator HILL—All Australians benefit. We will not apologise for that, because we

are the side of this parliament that is interested in more jobs and higher wages. We will get it through more economic reform and through further opening up international markets. That is the flip side: reform the domestic economy so that it can be as efficient as possible and open up domestic markets; take courage and enter into bilateral agreements, which this government has been prepared to do with China, Singapore and others; and further reform the WTO, the world trade agenda, as you have heard from Mr Howard, using both the APEC meeting and the CHOGM meeting. Then you win both ways. You will have a more efficient domestic economy and more markets to sell into and Australians will become more prosperous, and that is the goal of this government. *(Time expired)*

Welfare to Work

Senator LUNDY (2.11 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Is the minister aware that the Department of Employment and Workplace Relations was unable to provide last week's Senate inquiry into the welfare changes with any justification to support the government's claim that dumping vulnerable Australians onto lower welfare payments would help them get a job? Can the minister now explain how giving welfare recipients less money to live on will help these Australians to get a job?

Senator ABETZ—Once again, the opposition are asserting that which is absolutely false. I indicate to the Australian Labor Party that they are continuing with their scare tactic that people on payments now will somehow have their incomes reduced. That is not the case. Many ministers on our side have been indicating that to those opposite, yet they persist with their campaign of misinformation to the Australian people. There

will be new rules for eligibility as of 1 July 2006, which will be in line with community standards. What we are basically saying is that people who can work part time will be asked to work part time. That is not a great shock to the vast majority of the Australian people but, for some reason, those that pursue the 'welfare to nowhere' policy have great dismay at such a policy—a policy that might actually be encouraging people with a \$3.6 billion investment to assist them to make that transition. A \$3.6 billion investment will be of great benefit for them to be able to make that transition. Parents on parenting payments now will continue on those payments until the youngest child turns 16.

Senator Chris Evans—What about if they separate on 2 July?

The PRESIDENT—Order! Senator Evans!

Senator ABETZ—I suggest to the Labor Party question committee that, if they think that Senator Evans is so good at asking questions, they ought to give him a go.

The PRESIDENT—Senator Abetz, I have warned Senator Evans. I am asking you to return to the question.

Senator ABETZ—I can understand why they would not ask him to ask the questions.

Senator Chris Evans interjecting—

Senator ABETZ—Mr President, Senator Evans continues to interject despite your admonition, so you can understand why Mr Latham sacked him to make room for Mr Beazley—

Opposition senators interjecting—

Senator ABETZ—a person that we all know Mr Latham despised with a passion. So it stands to reason he despised Senator Evans even more, and I think I am now beginning to understand why.

But, in relation to the Welfare to Work proposals, there are special provisions for

people with severe disabilities, for foster carers, for home schoolers and for people in distance education—a whole variety of circumstances in which people might find themselves. What we as a government are seeking to do, very simply and very fairly, is to make the system as flexible as possible, to take into account every person's different circumstances to ensure that the system is fair. At the end of the day, what we are seeking to do, without any apology, is to assist people from welfare into work, and to achieve that we will have a special tapering system which means that the first \$62 of income earned will be free, as before. Then, from \$63 to \$250 earned, that will be reduced at 50c in the dollar and then, for \$250 or more, it will be 60c in the dollar. Previously, in fact, it was going to be 70c in the dollar. So what we are doing is encouraging people off welfare into work by having a policy—(*Time expired*)

Senator LUNDY—Mr President, I ask a supplementary question, and I do hope the minister will attempt to provide an answer—unlike his response to that first question. Why has the government adopted the American model of cutting income and reducing the protection of the most disadvantaged in our society?

Senator ABETZ—I have no idea where the deluded senator gets the idea that this is the American model. It is a specifically Australian model, designed to assist Australians from welfare to work. What we have combined is the social security payment—a \$3.6 billion investment in their welfare and their future—and a tapering rate for their incomes when they earn income above and beyond their social security benefit. So, Mr President, when you take those three lots into account, what we have is a very well-rounded and a very well-balanced social security system which will assist our fellow Australians off welfare into work, and that is

something that we as a government will continue to pursue.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the public gallery today of elders from the Gija people who sit on the board of the Jirrawun Arts organisation—in particular, President Freddie Timms, Vice-President Rusty Peters and artist Paddy Bedford. On behalf of all honourable senators, I welcome them to the Senate and to Canberra.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Workplace Relations

Senator TROETH (2.17 pm)—My question is to the Special Minister of State, Senator Abetz, Minister representing the Minister for Employment and Workplace Relations. Minister, you will be aware that early last week the Senate's Employment, Workplace Relations and Education Legislation Committee—

Senator George Campbell—What's the question?

Senator TROETH—tabled out of session their report on the Work Choices bill.

Senator George Campbell—What's the question? That's a statement.

Senator TROETH—In an inquiry that spanned five days of public hearings—

Senator George Campbell interjecting—

The PRESIDENT—Order!

Senator TROETH—and took evidence from 105 witnesses, in addition to—

Senator Carr interjecting—

The PRESIDENT—Order, Senator Carr and Senator Campbell!

Senator TROETH—over 200 major written submissions—what is the government's response to this report?

Opposition senators interjecting—

Senator Chris Evans—Mr President, on a point of order: as Senator Troeth well knows, the government wrote the report, as she revealed at the press conference. So you ought to rule the question out of order.

The PRESIDENT—The question is in order, but unfortunately a lot of us could not hear it for the noise on my left. Senator Troeth.

Senator TROETH—Would you like to me ask the question again, Mr President? In an inquiry that spanned five days of public hearings—

The PRESIDENT—No, just the question, Senator Troeth.

Senator TROETH—Thank you.

Opposition senators interjecting—

The PRESIDENT—Order!

Senator TROETH—What is the government's response to this report?

Senator ABETZ—Once again, you have got the Australian Labor Party, under the guise of a point of order, deliberately seeking to peddle false information to the Australian community. And, Mr President, we are seeing this happen time and again in this question time.

Senator Faulkner—Mr President, I raise a point of order. Isn't it the case that the order of business of the Senate outlines a time and a place for government responses to committee reports to be brought down? Is it not the case, Mr President, that this question is out of order and you should rule it out of order?

Senator Hill—I would argue against that, of course, Mr President, because if Senator Faulkner referred to his standing orders he would know that it is not proper to ask questions relating to the detail of the bill, but to ask questions as to the government's motive

or its response is clearly within the standing orders, and it is certainly legitimate for Senator Troeth to ask it and for it to be answered in this place.

Senator Chris Evans—Mr President, on the same point of order, may I say that Senator Hill deliberately misrepresented Senator Faulkner's point of order. He referred to the fact that a government response to a committee report is provided for in the order of business and it is not appropriate for it to be done in question time. It is provided for under the standing orders—

Senator Ian Campbell—It's on the bill; it doesn't have a response.

Senator Chris Evans—Well, if it's on the bill then it's clearly out of order also, Senator Campbell. The other point of order, Mr President, is that if it is about the bill then it clearly is out of order, because that is currently on the *Notice Paper*.

The PRESIDENT—As far as your query goes, Senator Evans, there have been some questions today about the bill and I would just like to—

Senator Conroy—Mr President—

The PRESIDENT—Would you take your seat, Senator Conroy? There have been questions today that—

Senator Ian Macdonald—Do not refer to the bill.

The PRESIDENT—Correct. What I am saying is that, in the past, other presidents, including most recently President Reid, ruled that questions and answers may not directly canvass the merits of a bill, but this does not prevent questions and answers about issues which are involved in a bill being raised, and that is exactly what this comes under.

Senator Faulkner—Mr President, I raised a point of order and I ask you to rule on it. The question that Senator Troeth asked went directly to the issue of a request of

Senator Hill to provide the government's response to the committee report. It would be out of order, Mr President, for you to allow this question, given that the government's response ought to be presented at another time, in writing—and the order of business of the Senate allows for that to occur. Now, it is quite possible that Senator Troeth, in her incompetence, has wrongly worded the question that was provided to her by Senator Hill and has just read out a piece of nonsense that was given to her, but I would ask you to rule the question she has asked out of order. It is not competent for such a question to be answered in question time.

The PRESIDENT—I rule the question out of order. Rather, I rule this way: there is no set time for government responses to reports. In this particular case, there is nothing on the *Notice Paper* to stop this from going ahead.

Senator ABETZ—With advice like that, you can see where Mark Latham went wrong. I thank Senator Troeth and the coalition senators for the wonderful work that they did in looking at the Work Choices bill. I indicate that the government will be looking at the proposals put forward in the report. Some great work was done by coalition senators, Senators Troeth, Johnston and Barnett and, I understand, Senators Santoro and Nash as well. I thank them for that. I also note some minority reports which, of course, are as hysterical as one would have predicted. It is quite noteworthy that the Labor Party's minority report relied very heavily on the trade union choirboy, David Peetz, the resident bard of Workers Online. He sought to assert—and the Labor Party do—that somehow he is an independent commentator, when he sings in a trade union choir and is the online bard for a trade union movement.

Opposition senators interjecting—

Senator ABETZ—I hear some concern from those on the other side as to my attack in this regard. I say that somebody attacked Mr McClintock—a former cabinet secretary, when he gave advice to Mr Howard—and then asserted that somehow this Mr McClintock, later on, could not make certain public comments because it would be in the guise of Mr Howard’s press secretary and, therefore, you should not put too much weight on them.

Senator Forshaw—What are you talking about?

Senator ABETZ—Yes, what am I talking about? Professor David Peetz’s letter to the editor on 30 August last year—that is what I’m talking about—where Professor Peetz condemned himself.

Senator Forshaw—Mr President, on a point of order: there is now about a minute to go. You ruled in order this question from Senator Troeth, who was the chair of the committee. The question was: what is the government’s response to the committee’s report? Senator Abetz is now off on some frolic about certain individuals. If you are going to allow the question then at least try and make sure that he answers the question he was asked.

Senator ABETZ—Mr President, on the point of order: part of the committee report includes the minority report. The minority report is peppered with references to this trade union choirboy. I can understand why the Labor Party is sensitive about it but—

The PRESIDENT—The minister will resume his seat. There is no point of order. I remind the minister that there is one minute and 28 seconds left for his answer and I remind him of the question.

Senator Faulkner—On a point of order, Mr President. Perhaps you could explain to the Senate the provisions of standing order 62 in relation to the ruling you have made in

relation to government responses and the order of business. Standing order 62 relates to consideration of committee reports, government responses and Auditor-General’s reports. You have made that courageous ruling. Could you please explain it to the Senate?

The PRESIDENT—I will give you a detailed response to that at the end of question time.

Senator Faulkner interjecting—

The PRESIDENT—Order! I will give you a response at the end of question time. I have ruled on the question and I will give you a written response after question time.

Senator Faulkner—I don’t believe you should have allowed the question.

The PRESIDENT—I have allowed the question.

Senator Faulkner interjecting—

The PRESIDENT—Senator Faulkner, resume your seat. I will give you a written response on that matter but I have ruled on it—

Senator Conroy interjecting—

The PRESIDENT—I beg your pardon. Are you reflecting on the chair, Senator, because, if you are, I ask you to withdraw.

Senator Conroy interjecting—

The PRESIDENT—Would you come to order, Senator! I call Senator Abetz.

Senator ABETZ—I turn to something in the majority report, this very well documented piece of work. Two criticisms were made of prospective government legislation. This is one quote:

The Howard model is quite simple. It is all about lower wages; it is about worse conditions; it is about a massive rise in industrial disputation; it is about the abolition of safety nets ...

Then there is another quote about the government’s proposals:

Firstly, these changes will be unfair, they'll be divisive, and they'll be extreme ... they'll have the affect of reducing their wages, stripping their entitlements, and removing their safety nets ...

They use virtually identical terminology. And do you know where the rub is? Both those quotes come from the same person, Mr Stephen Smith, the shadow minister for industrial relations. And do you know what? He made those two quotes 10 years apart. So the Australian people can judge the Australian Labor Party's rhetoric on this by what they said 10 years ago. After that 10 years they have a 14.6 per cent increase in real wages, the lowest rate of industrial disputation ever and they are making exactly the same prediction, 10 years later, that our new wave of reforms is going to deliver exactly the same to the Australian people. Rather than having that negative approach, we have a very positive approach. (*Time expired*)

Welfare to Work

Senator HOGG (2.29 pm)—My question is addressed to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Is the minister aware of evidence from St Vincent de Paul last week that 70 per cent of their home visits to Australians in desperate need of help are to people with a disability and single parent families? Can the minister explain exactly how the government's decision to leave single parent families with less money to feed their children will help the parent in these families to get a job?

Senator ABETZ—I am not aware of the St Vincent report that Senator Hogg refers to. But he is one of the few—and I hope I do not get burnt on this—on the other side whose assertions I am willing to take on face value. I have been burnt far too often by accepting quotes at face value from those opposite. In relation to parents that are looking after children with disabilities, we say that for the

extension of the carer payment to carers of children with severe intellectual, psychiatric or behavioural disabilities resulting in challenging behaviour there will not be any participation requirements.

In relation to single parents I indicate once again—and unfortunately Senator Hogg is repeating the misinformation which was from either Senator Wong or Senator Lundy's question about reducing the income of single parents—that there will be no reduction for those that are on the single parent payment. Those that come onto single parent payments in the future will have a different regime applied to them, and I have already explained that in detail to the Senate. There is the social security component, the \$3.6 billion investment in their individual future to assist them from welfare into work and the more attractive taper rates, which encourage them off welfare and into work.

All that the Australian Labor Party has to offer in response is a policy which is being dubbed 'welfare to nowhere'. People on welfare do not want to take that route of being continually on welfare without the opportunity of advancing themselves, as so many other Australians want to do. Just because somebody is on welfare it does not mean that they are not aspirational. That is the Labor Party's great fault in this debate—it somehow thinks that, if people are on welfare, they surely cannot have any aspirations to get into work and better their lifestyle and the lifestyle of those within their home or family unit. We as a government identify with those people and say that in fact you do—

Senator Chris Evans—Mr President, I rise on a point of order going to relevance. The minister was asked a specific question by Senator Hogg about the St Vincent de Paul submission about the fact that the government will after 1 July 2006 put single

parents coming onto welfare on a lower rate, on the dole rate, the Newstart rate. He has made no attempt to answer that question or the question about how they will be able to support their kids on less money after 1 July 2006. Could you please direct him to answer those questions?

The PRESIDENT—The minister has one minute and 20 seconds. I remind him of the question.

Senator ABETZ—At the very beginning, I would have thought even somebody as dull as Senator Evans would have cottoned on that I indicated that I and the government disagree with that assertion. When you debunk the assertion of the question—

Senator Bob Brown—Mr President, I rise on a point of order. I find that the reference to Senator Evans that the minister just used is reflecting and offensive. It is not the first time he has done that today. I ask you to look at it with a consideration to having him withdraw it.

The PRESIDENT—I do not believe it was unparliamentary. I do not think Senator Evans thought it was offensive. Senator Abetz, you have 56 seconds.

Senator ABETZ—It is always good to see the Labor-Greens accord in full flight in this chamber, where Senator Brown and the Greens have to come to the defence of the hapless Labor leader in this place. What we as a government are saying quite clearly is that we disagree with the assertion that has been made. We then point out that you cannot only take into account the payment that might be made available; you have to take into account the \$3.6 billion investment on top of that plus the new taper rates, which make it so attractive for them to take on part-time work. To only talk about one aspect of the policy without taking into account the other two aspects of the policy is to deliberately misrepresent our policy.

Senator HOGG—Mr President, I ask a supplementary question. How can the Howard government justify taking food off the table of vulnerable families when it cannot explain how this helps people get work? Why does the government want to make the job of groups like St Vincent de Paul even harder by forcing more vulnerable Australians to seek emergency support to feed their kids?

Senator ABETZ—Can I indicate to Senator Hogg and those opposite that mere repetition of an assertion does not turn it into a fact. What those opposite are doing is relying on a strategy that, if they repeat the assertion often enough, enough people might start believing that assertion. That is why I repudiated the assertion in his first question and I repudiate the assertion in his supplementary question as well. You have to look at the totality of the policy and look at the payments made under the social welfare system, the \$3.6 billion investment and the new taper rates, which will make it attractive for Australians on welfare who are able to to make that transition into work.

Border Protection

Senator JOHNSTON (2.36 pm)—My question is to the Minister for Justice and Customs, Senator Ellison. Will the minister update the Senate on how the Australian government is continuing to protect Australia's borders? Is the minister aware of any alternative policies?

Senator ELLISON—That was a very important question from Senator Johnston. Of course, he is from Western Australia, where border protection is taken very seriously. We have devoted a lot of resources to protecting the borders of Australia. Last week I announced that Customs officers who were engaged in the frontline would be armed. Previously, those officers who were on marine patrols were armed. We have now

extended this to Customs officers who are working on the wharves and in remote areas and on the execution of warrants. It is very important that we provide that resource to Customs men and women who are working in dangerous circumstances to carry out very important work for the protection of Australia's borders and interests.

They will be armed with 40 millimetre Glock handguns, personal body armour, batons, capsicum spray and handcuffs. The first appointment will be at the Port of Melbourne in Melbourne, where of course next year we have the Commonwealth Games. We will deploy further Customs officers in relation to the ports of Sydney and Brisbane and other areas. This is an important step forward in resourcing the men and women in our Customs Service in doing the important job they do and it has come about as a result of an operational assessment that this is needed to assist them in the job they do, which at times is very dangerous.

Senator Johnston mentioned the question of alternative policies. We saw the farce on the weekend when the Leader of the Opposition, Kim Beazley, came forward with Labor's fifth version of a coastguard in four years. What did he do? He regurgitated the Latham policy, which went to the people of Australia and which was beaten at the last election—a policy which was not even costed because they did not even get it in time to be assessed. This policy—around about \$300 million—will see three more vessels the same size as the 14 we are already constructing and another five the same size as the Customs vessels. But guess what? There will be a new bureaucracy to run them. So you will have Customs, Navy and then another bureaucracy to run these eight new vessels.

But it did not finish there because the Leader of the Opposition's ignorance and

confusion was further demonstrated this morning when on Brisbane radio he said that if the government had done what the Labor Party suggested four years ago, we would not have the problem we have got in relation to illegal fishing. Guess what? In 2001, Mr Beazley, who was then Leader of the Opposition, put forward a version of coastguard which was going to cost \$895 million. That is just under \$600 million more than the one he announced on the weekend. Which one is it? Is it the 2001 version or is it the 2005 version? Is it the \$300 million version or is it the \$895 million version?

This comes from a Leader of the Opposition who professes to know what he is talking about when he does not even realise that Customs vessels are already armed and that they have engaged in firing shots in encounters that they have had with illegal fishers, who does not even know the powers of arrest and the powers of investigation that Customs Service officers have and who has completely disregarded the good work that the men and women of the Australian Customs Service and the Royal Australian Navy are doing. He knows as much about the coastguard as he does about Michelle Leslie.

Nuclear Energy

Senator ALLISON (2.40 pm)—My question is to the Minister representing the Minister for Education, Science and Training. I refer to Minister Nelson's proposal to spend \$1 million encouraging nuclear energy in Australia. Isn't the government already aware that the real cost of nuclear energy is higher than renewable power? Is the minister aware that the United States subsidises nuclear energy to the tune of \$115 billion plus \$145 billion in indirect subsidies? Does the minister know that, even if agreed today, a nuclear reactor would take 15 years to deliver power? Why then would the government agree to waste \$1 million telling us

what we already know when most nuclear power countries are moving to renewable energy because it is cleaner, cheaper and more flexible? Will the government once and for all rule out the idea of nuclear power for Australia?

Senator VANSTONE—Senator Allison, I thank you for the question and for the display of your open-minded attitude to this matter being looked at in the long-term interests of Australia. It seemed to me, frankly, that you have made up your mind on this issue. There have been reports of Dr Nelson's and Minister Macfarlane's interest in this matter being looked at. As you rightly point out, it may take some time, were Australia to decide to pursue this path, for that to become a reality—but that in itself, of course, is no reason not to do it. What is being looked at by the two ministers is the possibility of getting a thorough, comprehensive and independent assessment. I would hope that, if that proceeds, people give consideration to that on its merits rather than coming to it with a preconceived notion. Just as a matter of interest, on simple principles, pursuing one course of action does not necessarily preclude another. So, if one were to pursue a path of interest in developing nuclear energy in Australia, it does not at all mean that you would not be interested in renewable energy as well.

Senator ALLISON—Mr President, I ask a supplementary question. Does the government acknowledge that nuclear power generates even more greenhouse emissions and that it is not greenhouse emission free, and that fossil fuel energy is used to mine and process uranium ores, enrich fuel and build nuclear power stations? Does the minister agree that building nuclear power stations would actually increase greenhouse pollution in the short term, and in the long term put much more carbon dioxide into the atmosphere than solar, tidal or wind power? It is

true that renewable energy generation is growing in Australia but isn't it the case that, as a percentage of the total, it is actually shrinking?

Senator VANSTONE—I thank the senator for that dissertation on selected facts she chooses to present. My mind goes back to a meeting I attended many years ago with Sir John Carrick, who I think was then the minister for mines and energy. I think he was suggesting that we produce stickers that said: let the so-and-sos freeze in the dark. That was his way of making the point that he believed nuclear energy was very clean, very efficient and something that we would, in the long term, need in Australia. If an assessment is done—by bodies more august than yourself, Senator—I hope you will take the time to look at what those bodies decide, if in fact that happens.

Fishing Industry

Senator HEFFERNAN (2.44 pm)—My question is to the Minister for Fisheries, Forestry and Conservation, Senator Macdonald. Will the minister outline to the Senate the measures that the Howard government has taken to secure Australia's fish stocks and assist the fishing industry more broadly? Is the minister aware of any alternative approaches to these issues?

Senator IAN MACDONALD—I thank Senator Heffernan for that question and also for the support he gives to the fishing communities of Eden, Bermagui, Ulladulla and Wollongong along the New South Wales coast, helping Gary Nairn and Jo Gash in that very important role. Fishing is one of Australia's most significant industries. It is a very successful export earner and it supports thousands of jobs, particularly in rural and regional Australia. The fishing industry has been doing it tough through high fuel prices and the very high exchange rates. As well as that, the sustainability of the fish stock has

been under some pressure. In short, in Australia there have been too many fishermen and too few fish.

Last week the Howard government acted decisively to protect fish stocks and at the same time secure the future of the Australian fishing industry. Substantial cuts were made to the allowable catch and a \$220 million package was announced to help the industry adjust to the lower catch rates and become profitable again. That was all about making the tough decisions today so that there is a fishing industry tomorrow. The Howard government has acted decisively to end overfishing in Commonwealth waters.

This is a balanced package. It decisively addresses that overfishing issue in the short term while setting the industry up for a profitable future in the long term. It kicks major environmental goals and it lets those fishermen who want to do so get out of the industry now and to do so with some dignity while allowing those who want to remain to make a reasonable living in the future. The package adopted means that we are avoiding the fisheries management mistakes made in the Northern Hemisphere. It really puts Australia at the forefront of fisheries management internationally.

I always say self-praise is never any great recommendation. Let me tell you what the South East Trawl Fishing Industry Association said of the package: 'SETFIA applauds the government's commitment to ecologically sustainable fisheries which go hand in hand with economically viable fishing industries.' The Commonwealth Fisheries Association said the package offers 'a unique opportunity to secure a more sustainable and commercially viable fishing sector'. WWF Australia said:

This bold pledge aims to restructure fisheries management arrangements in order to rebuild

healthy marine ecosystems and healthy fish populations in Australian Commonwealth waters.

The Humane Society International said:

We commend the Government for moving to tackle the problem—

that is, overfishing—

head-on.

Senator Heffernan asked me if I am aware of any alternative policies. Regrettably, I am not. There are no alternative policies from the Labor Party, no direction and no leadership. In 10 years in opposition, Labor simply does not have a clue about fisheries management—or indeed most other things. As the forestry industry well knows, when election time comes around, the Labor Party makes any policy it can think of on the run. It does something that Senator Bob Brown might suggest to them, and something that Senator Faulkner might recommend, to try to get a few extra votes from the city electorates. By contrast, the Howard government understands what it takes to look after the environment while also sustaining our industry, our jobs and our regional communities.

Telstra

Senator CONROY (2.48 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. I refer the minister to Telstra's announcement of its plans to axe 12,000 jobs. Can the minister confirm that, as shareholder minister, she was advised of Telstra's plans before they were disclosed to the market? Can the minister advise the Senate what, if any, action she took or intends to take to dissuade Telstra from its plan to slash these jobs? Will the minister now accept that these jobs are the inevitable consequence of the government's extreme privatisation agenda and that Telstra workers are being sacrificed to prop up the flagging share price before the sale?

Senator COONAN—I thank Senator Conroy for the question. The situation with the job cuts and Telstra is that, as everyone knows, the government does not run Telstra and the government does not set the numbers of employees, nor does the government sit on the board and take part in management decisions. I would have thought that, with the events the way they have unfolded over the past couple of weeks, it would be abundantly clear to Senator Conroy and to the Labor Party that it is a matter for Telstra what it does in relation to jobs and indeed some rationalisation as part of the strategy that it has recently released. The situation is that Telstra has to make decisions as to how it is going to run the company. The government's job is to set the rules. It is up to the regulator to enforce the rules, and it is up to Telstra to get on within the rules and to show what this company is made of and what it can do.

The situation in relation to jobs is that nobody likes to see anyone's job being threatened but it is completely impossible for the government to be mandating levels of employment in Telstra. We should not do that—and indeed we will not be doing that. The government's role in relation to telecommunications is to set the rules for over 100 telecommunications providers, not just Telstra. Some focus on what Telstra does on the part of the Labor Party is certainly not going to be of any advantage either to Telstra or to the general competition regime. It is interesting that Senator Conroy, in a speech last week in which once again he squibbed on actually announcing any policy on the part of the Labor Party—he is still prepared to leave the heavy lifting to everyone else—acknowledged that competition in telecommunications has actually delivered billions of dollars to this economy. How would you have competition delivering billions of dollars if, as Senator Conroy wants, the gov-

ernment were micromanaging not only Telstra but every other telecommunications provider? It is of course a recipe for absolute nonsense.

The job cuts in relation to telecommunications partly result from the development of technology. We know that under the Labor Party the number of Telstra staff members fell from 90,000 to 76,000 between 1990 and 1992. And who was the telecommunications minister? Yes, it was Mr Beazley. The Labor Party has presided over the largest job cuts in the history of telecommunications and certainly in the history of Telstra. Telecommunications is an area where, because there are constant advances in technologies—

Senator George Campbell interjecting—

The PRESIDENT—Order! Senator George Campbell, shouting across the chamber is disorderly.

Senator COONAN—new jobs are being created all the time. There is every prospect that people whose jobs are rationalised as part of Telstra's regime and Telstra's review will be able to be relocated within the industry. Telstra should get on with running its business without the interference of the Labor Party.

Senator CONROY—Mr President, I ask a supplementary question. I refer the minister to her attempt to avoid responsibility for these job losses with the comment that 'work force issues are a matter for Telstra, not the government'. How does the minister reconcile this claim with the fact that in April Telstra management were directed to re-employ former Liberal Party staffer Mr John Short on a contract worth \$2 million? Can the minister explain why the government will only intervene to protect a job in Telstra if you are a mate of Senator Minchin?

Senator COONAN—Once again, Senator Conroy shows his abysmal ignorance of telecommunications. He has said very plainly he

has got no policy interest. His paper last week showed that he had no policy interest. As far as jobs go, what the Labor Party needs to do is get on with passing this government's industrial relations reforms that will give Australians the best possibility of having a job, a decent future and some prosperous livelihood going forward.

Climate Change

Senator MILNE (2.54 pm)—My question is to the Minister for the Environment and Heritage, Senator Ian Campbell. I ask: given that the minister's often-stated justification for the government's failure to ratify the Kyoto protocol is that it does not go far enough in slashing greenhouse gas emissions, how does the minister intend to justify to the world at the first meeting of the parties to the protocol in Montreal next week Australia's failure to slash its transport and energy emissions, its failure to set a mandatory energy efficiency target, its failure to increase the mandatory renewable energy target and its failure to set any targets, let alone any Kyoto targets, for its Asia-Pacific climate partnership?

Senator IAN CAMPBELL—It is good to get a question from the Greens on an environmental issue. Usually we hear the Greens coming up with plans to make it easier for young Australians to get access to drugs, plans to put taxes up on people's homes and plans for increased taxes and increased spending, but we have actually got a question about a very important issue—that is, of course, about the increase in greenhouse gas emissions and the threat to the world's climate and to Australia's climate from increasing global greenhouse gas emissions.

The trouble is the Greens seem to think—and I see a motion on the *Notice Paper* today—that signing an agreement which, during the period that it is in force, will see greenhouse gas emissions in fact rise by 40

per cent is somehow a way of saving the world's climate. Under Kyoto, during the first commitment period the greenhouse gas emissions of the world will in fact rise by 40 per cent. That is one of the reasons why Australia has refused to ratify the treaty and has decided to continue to lead the world in terms of domestic policies with an investment of just over \$1.8 billion in low emissions technologies to clean up fossil fuels that most governments around the world recognise will form a part of the energy solution for the world for at least the next 30, 40 or 50 years. We have invested heavily in renewable energy technologies, having invested in excess of \$100 million in solar technologies alone, hundreds of millions of dollars in wind technologies and, of course, action community by community through the Cities for Climate Change partnership.

We are one of the leading governments in the world in terms of climate change action both domestically and internationally. We put our money where our mouth is, and one of the important things for Australia to do is in fact to lead the world in terms of energy efficiency measures. At the domestic level, we have one of the world's first energy rating systems for household appliances. We are leading the world in terms of water efficiency labelling, which also has a significant impact on reduction of the use of hot water, for example, and therefore reducing greenhouse gas emissions. Instead of the Greens continually talking down Australia, I would ask them to join the rest of the world who, when it comes to greenhouse action and domestic policy—

Senator Bob Brown—Mr President, I rise on a point of order. The point of order is obvious.

The PRESIDENT—What is the point of order, Senator?

Senator Bob Brown—Senator Milne asked the minister to address the failure of government regarding a series of very specific targets, and the minister has not addressed one of them yet. That is the question and that is where the answer should be addressed.

The PRESIDENT—The minister has got almost a minute and a half left, and I thought he was answering the question.

Senator IAN CAMPBELL—It is very hard for Senator Brown to understand the debate about greenhouse because he spends so much time writing policies to make drugs more available to young Australians, making them available at venues, putting up taxes on the family home, increasing government expenditure—

The PRESIDENT—Minister, I would ask you to return to the question.

Senator Bob Brown—Mr President, I rise on a point of order. I ask you to look at that reflection from this minister, which is absolutely and factually untrue. The minister might use this sledging but it is not acceptable in this Senate, and I ask you again to have him withdraw that comment.

The PRESIDENT—Minister, perhaps that was a reflection on a senator that could be unacceptable. I ask you to withdraw it.

Senator IAN CAMPBELL—Mr President, I draw your attention, and every other person's attention, to the Greens web site—

The PRESIDENT—No, I would ask you to withdraw—

Senator IAN CAMPBELL—No, President, I won't, because the Greens—

The PRESIDENT—I would ask you to withdraw that reflection on a senator.

Senator IAN CAMPBELL—If there is any reflection on Senator Brown—

The PRESIDENT—I would ask you to withdraw it.

Senator IAN CAMPBELL—I withdraw it. The Greens web site shows that the Greens have a policy which makes sure that drugs are made more freely available to young Australians. I refer anyone who is interested in the Greens policy to go to the Greens web site, as I did on 26 August, and look up the policy.

Senator Bob Brown—Mr President, I raise a point of order. That is a reflection which is moving from the specific to the group of Greens. He is repeating the same reflection. I ask you to insist that he get back to answering the question.

The PRESIDENT—Senator Brown, Senator Ian Campbell withdrew the reflection on you. He commented on policy of the Greens, but I would remind the minister of the question. There are 51 seconds left to answer it.

Senator IAN CAMPBELL—The Australian government is recognised internationally as a leader in domestic policy in terms of energy efficiency, energy efficiency labelling, water efficiency labelling, and policies on renewable energies. We were the first government in the world to have a mandatory renewable energy target—brought in under the leadership of the Howard government—and we are now the first government in the world to have a Solar Cities program to fast-track solar technology into cities. In fact, Adelaide will be the first city in the world to be transformed through the Solar Cities program. We have a fantastically successful greenhouse action program across industry, local communities and households. Instead of continually talking down Australia, the Greens should be proud of what we are doing both domestically and internationally.

Senator MILNE—Mr President, I ask a supplementary question. In response to the minister's answer and further to it, I ask him if he intends to inform the world in Montreal that Australia has no intention of adopting a mandatory energy efficiency target and that it has refused to increase its mandatory renewable energy target such that investment in renewables is currently leaking away to other coal based technologies. Will he inform the world that Australia is now wanting to support the slow-to-deploy, expensive, and dangerous-to-operate nuclear power? If he intends to do that, can he also tell us what specifically he does intend to commit Australia to in Montreal in terms of a target. If we are going to have a 40 to 60 per cent reduction, how does Australia intend to do it if it simply goes with voluntary targets?

Senator IAN CAMPBELL—What I will be saying to my colleagues at the meeting in Montreal next week is that Australia will be part of domestic and international action to reduce greenhouse gases. Because the problem is so large, it needs to be done through a portfolio approach. We need to invest heavily in renewables, as Australia is doing—probably more per capita than just about any other country on the planet. We need to invest in over-the-horizon new technologies, we need to invest in gasification, we need to invest in combined cycle, we need to invest in geosequestration, we need to invest in hot rocks, we need to invest in a portfolio of approaches to expand the energy that is available to the world but do so with much lower emissions. Australia will be a very constructive partner in the UN framework convention meetings in Montreal next week, as we will also be a world leading government in terms of our domestic programs.

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

QUESTION TIME: ALLOCATION OF QUESTIONS

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (3.03 pm)—Mr President, could I draw your attention to the fact that you invited feedback on your ruling on question time and the order of questions. Again today, the opposition received only four questions in question time. That is a record low that has been reached on a couple of occasions, and I would ask you, in reviewing the allocation of questions, to take into account the increasing arrogance of the government in refusing to allow the opposition to ask sufficient questions to bring any focus on government business whatsoever.

Senator HILL (South Australia—Leader of the Government in the Senate) (3.04 pm)—I am not sure how Senator Evans intervened, but if I could intervene in the same way, he might reflect on the fact that if he intends to instruct that there be a supplementary question to each principal question and that if, furthermore, there are numerous spurious points of order, he cannot complain about not getting enough questions within the time. If the Labor Party is prepared to cooperate towards having a reasonable question time, the Labor Party would get more questions and the government would as well.

The PRESIDENT—I think we all know the reason why there was a lack of questions today. It was because there were very long questions, very long answers, and a lot of points of order. Some of them were quite spurious.

QUESTION TIME: RULING

The PRESIDENT(3.05 pm)—I want to put on the record again the ruling in response to Senator Faulkner today. I was asked about Senator Troeth's question relating to the report of the Employment, Workplace Relations and Education Legislation Committee

on the Workplace Relations Amendment (Work Choices) Bill 2005.

As I indicated, there is no rule of the Senate about when a government response to a committee report may be presented, and therefore there is nothing to prevent a question inviting such a response. My attention was drawn to standing order 62. There is nothing in that standing order to prevent the question. The standing order provides for debate on committee reports and government responses after their presentation to the Senate, and it has nothing to do with question time. Even if the report had been put before the Senate and debated, the question asked would not have been out of order, because of—as I said earlier—the interpretation of the anticipation rule to which I referred earlier in the previous ruling by President Reid.

Senator Faulkner—Mr President, I rise on a point of order. As you responded in writing to the point of order I took, you might also respond in writing and indicate to the Senate whether we have ever had a situation in the history of this chamber where a government response has not been provided in writing and has not been provided at the time when committee reports and other matters are tabled. Could you also indicate whether a government response has ever been provided in question time. Those are the substantive issues. With respect, they have not been addressed in the response to my point of order that you have just given. To my mind, what has occurred in question time today is utterly without precedent in the history of this chamber.

The PRESIDENT—It may well be and it may well not be, but we will have a look at it.

Senator Hill—Mr President, on the point of order, which I think is also an odd procedure in this instance but Senator Faulkner started the process, I think the point that

Senator Faulkner fails to appreciate—and perhaps time has taken its toll a little on Senator Faulkner over the years—is that the government quite often responds to a report on a committee actually in the debate that subsequently follows. There is no prohibition on the government reporting at any time or in any form. Certainly, if Senator Faulkner refers himself to standing order 73, he will see that, whilst it might not be proper to involve him in a discussion of the report by the committee, it certainly does not rule out the option of the minister responding in the form of question time.

Senator Faulkner—They have never not been done in writing, and even you know that, Mr President, and you should know it.

The PRESIDENT—Order!

Senator Hill—It is totally in order and, rather than wishing to acknowledge that, of course, Senator Faulkner resorts to his usual technique of simply asserting something, shouting his assertion and demanding that his view be accepted. In this instance, as more commonly is the situation, he has misinterpreted the standing orders. The process that was adopted in the question and the answer was perfectly legitimate within the standing orders. And, for what it is worth, Mr President, I respectfully support your determination, which seems to be absolutely correct.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Welfare to Work

Senator LUNDY (Australian Capital Territory) (3.09 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 today relating to proposed changes to welfare legislation and to industrial relations.

Several questions were put to Senator Abetz covering issues relating to the so-called Wel-

fare to Work proposal and linked to the extreme industrial relations agenda. The answers provided by Senator Abetz showed how completely incompetent the government's position is and, indeed, how unreasonable. The bottom line is that Australia is facing a Howard government agenda that will set us upon the low road, not the high road. It is the low road that accompanies low wages with a tax on the most vulnerable in society. It is the low road where Australian society relegates those most vulnerable to the bottom of the heap, and then sits back and watches their suffering with little assistance and certainly no compassion. This is John Howard's Australia in 2005.

We are facing a double-edged sword from the government: the so-called Welfare to Work program, which is really a welfare to welfare program, combined with the extreme industrial relations changes will victimise those most in need in our society. But, first, I would like to take the minister to task because I believe that today he misled the Senate.

Senator Ferguson—Mr Deputy President, on a point of order: I know you were writing at the time, but I do think you might draw Senator Lundy's attention to the fact that she should refer to the Prime Minister by his proper name or title.

The DEPUTY PRESIDENT—Yes, that should be adhered to, Senator Lundy.

Senator LUNDY—Senator Abetz today suggested in his answer to questions without notice that the government had somehow reduced the effective marginal tax rates for welfare recipients who move from welfare to work. In fact, the opposite is true. In dumping people onto the dole, the government is in fact increasing their effective marginal tax rate when compared with the tax rates under the current arrangements. It is indicative of this government's incompetence that its wel-

fare changes will put people onto a payment where they will lose more from every dollar they earn than under the current arrangements.

That exposes Senator Abetz's pitiful, whining rhetoric today that somehow there is a benefit for people affected by these changes in the Welfare to Work program. The fact is that the Howard government is reducing the rewards for people to work, and that is no way to get people from welfare to work. I urge the minister to come back into the chamber and amend his response. When he does, it will expose his shallow denials of the true impact of this so-called Welfare to Work policy deception. It is really a welfare to welfare system.

Instead of moving people from welfare to work, they are just dumping people from one welfare payment onto a lower welfare payment. This will not reduce the number of people who depend on welfare, it will just move them from one database to another. In fact, the government has admitted that around 300,000 Australians will be financially worse off under these changes, but only an anticipated 109,000 will gain any work from the exercise. That is hard evidence that this is not about helping the most vulnerable people in our society; it is about penalising them, and it is a punitive action on those most in need.

Those who do find work may actually end up poorer than they were before, because the Prime Minister is planning to take more off them under these incompetent changes, as I have said. The link with the industrial relations extreme agenda proves that these people will have little bargaining power to try and extract a decent living wage for themselves. Imagine the combination of the extreme industrial relations agenda and the push for Australian workplace agreements, or indeed individual contracts, for someone,

say, with a disability who, by rejecting any workplace offer, no matter how appalling, will lose their benefits.

It is a pincer movement on those currently on the disability pension. It is a pincer movement on sole parents, who are most in need in our society and who are worthy of support to help them bring up Australia's children and to help them in their fair efforts, I think, to try and find work. Labor argues for an appropriate investment in skills and education and a facilitation of the efforts of these people to find work, rather than punitive victimisation, which is exactly what the Howard government is going to do. The industrial relations changes and the welfare to work combine to render Australia into an American system—one that we have never admired—where we create a society of haves and have-nots. When we look at what has happened in America, we see people working under the poverty line. That is not what we want for Australia. (*Time expired*)

Senator SANTORO (Queensland) (3.14 pm)—We have again heard the Labor lies today in this place during question time and, with respect, from the senator who has just spoken. There are two great mistruths that are perpetrated by senators opposite and by members in the lower house. One is that employers are going to be rapacious in terms of their attitudes towards employees with the passing of the Workplace Relations Amendment (Work Choices) Bill 2005. The second point they seek to make is that the amendments are revolutionary changes. I say to members opposite that they should really wake up to themselves. At the core of their campaign is the assertion that no employer can be trusted to treat their employees right. That is at the core of the campaign of both the Labor Party and the unions. Clearly, that is the dogma that they want to perpetrate through the campaign.

Look at what is contained in *The Latham Diaries*, the Labor Party's and the union movement's hatred of employers, motivated by the declining membership of the union movement—which, in 1990, was 40.5 per cent and, in 2004, was 22.7 per cent, of which only 17.4 per cent was in the private sector. When you look at those two factors—declining union membership and hatred of employers—it is very clear to us on this side of the chamber what the campaign is all about, despite the fact that deep down the Labor Party knows that the bosses, the employers, are not the mean-spirited, rapacious people that they say they are. One only has to look at what Sharan Burrow, the ACTU president, said on 8 August on *Lateline*. She said:

I think you'd be surprised about how flexible small business can be and if they know there's a way of keeping a very skilled employee attached to their enterprise ... They tell us they're worried about losing skilled workers, particularly at a time of increasingly full employment.

So what is she on about then, running an \$8 million campaign saying that small business employers will run amok and unfairly sack their staff under the new system? This claim clearly does not stack up. There is much hypocrisy and much deceit in the campaign that has been mounted by the Labor Party. Do they think that this sort of campaign is winning them votes? Do they look at opinion polls and see, perhaps, a blip in the polling of the government parties and take solace in that?

Let us get particularly relevant and specific in the debate this afternoon. I will quote what the President of the Logan Chamber of Commerce has had to say about your views on employers. These are the employers that are going to keep on employing their valued, well-trained and most appreciated employees. They are going to keep on employing and remunerating them in very fair and very

generous ways. Come the next election campaign, it is these types of people, the employers and employees, that the Labor Party will have to contend with. This is what the President of the Logan Chamber of Commerce, Graeme Isaacson, said. He said that employers were being maligned by politicians, the church and the unions and that he had had enough. He said:

I am sick and tired of employers being portrayed as predators waiting to take advantage of employees. The truth is just the opposite.

Bear in mind that Logan businesses are in one of the key Labor Party federal seats, as honourable senators opposite know. He said:

Logan businesses want our employees to be happy in their job, be well-trained and to care about the business and our customers. It's a partnership. Business must be profitable to create employment opportunities. Workers are consumers of our products. The wealthier they are, the more they buy and consume. Thus our businesses grow and we employ more people. Much of our current IR regulations are stuck in the mentality of a nine to five weekday week back when there was no late-night or Sunday trading and football was only a Saturday event. Awards reflect this outdated, inflexible approach to our modern-day employment.

They are the sorts of people you are going to have to contend with—the people that are going to keep creating jobs at record levels and keep their workers happy, making sure that they are well and truly looked after. So what you have done again today during question time and in this debate is to perpetrate lies and mistruths. I think you will be judged accordingly when the next election comes around. The current Howard government has gone to four elections and obtained a mandate for these evolutionary, not revolutionary, reforms. They are going to provide results in the workplace that members opposite do not like for political reasons, and you will suffer the consequences at the next election. *(Time expired)*

Senator MOORE (Queensland) (3.19 pm)—I am disappointed in Senator Santoro. I think some of those comments were not worthy of the debate. I wish to take note of some of Senator Abetz's responses in today's question time. Senator Abetz said in response to one of our questions that 'near repetition of an assertion does not make it into a fact'. I repeat that back to you, Minister. That is absolutely true. Consistently restating that nobody will be worse off by the changes that I think are called erroneously 'welfare to work' will not turn it into a fact. The minister also said, in one of his previous answers, that, 'The pay packets of Australian workers will speak loudly.' That is absolutely true. The actual money that is in the bank accounts and pockets of Australian people does speak extremely loudly.

We know, from the evidence we have received from community groups across the country, and from support workers, church groups and also people who are currently surviving on welfare payments, that they just do not know how they are going to be affected financially by the changes which this government wants to impose upon them under the guise of wanting to support them into a job. What we consistently hear from the government is that a job is the best way for people to remove themselves and their families from the welfare cycle and, also, to improve themselves. There is no debate about that—there is absolutely no debate.

However, what we consistently ask you to do—what we have been asking since budget night when this particular round of changes was been discussed—is: show us where forcing people onto lower payments, cutting down on their financial security and taking them away from the security of a system they know will make them more able to have employment, and show them how this is going to make their lives better. But what we consistently hear from the government is not

the answer to that question, despite the numerous times we have specifically asked them to show us the empirical evidence that says that cutting people's incomes will make them keener and more able to get work. We thought the whole thought process behind this package was to give people more skills, more confidence and more understanding of how they would be able to work in our community with the advantage of employment.

There is no disagreement from anyone that finding secure employment is a goal that we all share. Senator Abetz said today in his answers that there is nothing about people being on welfare that does not make them aspirational. Whilst I have some significant concerns with the adjective 'aspirational', the idea that people do want to seek a way to improve their future and the future of their family is something that we can all agree on. It is a shared goal.

What we asked, and what we have consistently asked, is: where in the Welfare to Work package as we have seen it up till now—the legislation, the large tome of the explanatory memoranda and the yet-to-be-seen inches of guidelines that we live in hope of seeing and which we hear about all the time—is there the support and the understanding to give people the help that they need? No-one doubts that there is a need for help and assistance. Where is the package going to make people's lives better?

There is a mere repetition from the government of a consistent mantra—to quote Senator Abetz again—that this is somehow going to work, in terms that really amount to: 'Trust us. We know best. The system will work.' Merely repeating that consistently will not turn it into a fact. We need to know how the support is going to operate. Those fortnightly bank accounts will now be cut. We have heard figures that are very frighten-

ing about what the fortnightly income is going to be for families across Australia under this process. How is that going to help? That silly mantra seems to imply that just telling people they are going to be better off will make it into a fact. It is not true. It will not give the answers that we need and it does not supply the security, the hope or the trust that people need when they want to go out and seek work.

Senator BARNETT (Tasmania) (3.24 pm)—I am pleased to speak in the debate to take note of the answers given by Special Minister of State, Senator Eric Abetz, in question time today. I want to bring to account the Labor Party and their union colleagues for what they said in 1996 and to look at the results. I also want to look at what they have said today and in recent weeks and months. We will see that the proof of the pudding is in the eating. In 1996 Mr Stephen Smith argued:

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

And the Leader of the Opposition, Mr Beazley, in 1996 said:

... the government is attacking the very basis of people's living standards. ... Attack wages, and you attack families.

... ..

Another group marked down for special punishment by this measure is Australian women.

Well, look at the results. This is what they said in 1996. They are saying it again today. What has happened between 1996 and today in terms of industrial relations reform and economic development? We have had the best growth—it is quite impressive in anybody's book—with 1.7 million new jobs. We have had 14.9 per cent growth in real wages.

Compare that to the 1.2 per cent growth in the 13 years under Labor.

Senator Marshall—Are you going to admit you were wrong? You can be sacked for chewing gum, can't you?

Senator BARNETT—I am happy to address that question.

The DEPUTY PRESIDENT—Order! Senator Marshall! Senator Barnett, address your comments to the chair.

Senator BARNETT—What I am doing is calling to account Labor and union rhetoric and antagonism regarding the reforms in 1996. And they are doing it again. I am saying the proof of the pudding is in the eating and the results are on the board. In terms of what they have said recently, Kim Beazley said, as recently as this year:

The Government's objective with Industrial Relations is not reform but suppression of wages.

He went on:

They don't want a package that is about improving the economy; they want a package which is about oppressing wages.

Mr Smith, the shadow minister, has been saying the same things, mirroring exactly what he said in 1996. He has said:

Firstly, these changes will be unfair, they will be divisive and they will be extreme.

Secondly, so far as the impact on Australian employees and their families, they will have the effect of reducing their wages, stripping their entitlements and removing their safety nets.

Senator Marshall—Absolutely. And you saw the evidence for that.

Senator BARNETT—Mr Deputy President, I am happy to accept and take on board the continual interjections from Senator Marshall and I am looking forward to responding to those interjections at the appropriate time.

The DEPUTY PRESIDENT—Senator Barnett, address your comments to the chair.

Senator BARNETT—The Labor Party and the unions are one and the same. The Labor Party will not refute this fact: they have received \$47 million from the union movement since 1996. Together with the scaremongering—

Senator Marshall—What's that got to do with the bill?

The DEPUTY PRESIDENT—Senator Marshall, that is unparliamentary.

Senator BARNETT—What I am doing is calling Labor and the unions to account, and your scaremongering, Senator Marshall, together with that of your colleagues—

The DEPUTY PRESIDENT—Senator Barnett, address your comments to the chair and forget about Senator Marshall's interjections.

Senator BARNETT—Kim Beazley said that divorces are going to go up and there will be family breakdowns. We have had references to civil rights. We have had references to higher road deaths as a result of this legislation. We have had this legislation likened to fascism by John Della Bosca, who is the Labor Minister for Industrial Relations in New South Wales. That is the type of rhetoric and antagonism which is totally uncalled for and way over the top. I call it hysterical overreaction. That is exactly what has happened. The Victorian Labor state MP Bob Smith even suggested that the reforms will lead to American-style murders of women and children on picket lines. The Labor union movement was just as vitriolic—this is my point—in 1996 and just as vitriolic in its opposition to the GST in 1998. And what has happened? We have delivered. The Howard government, under Costello and Howard, have delivered the reforms and delivered better outcomes for families, for working men and women and their families, across the country. This is all about something that Greg Combet said in May 2005—'We need a

change of Government.’ That is what the debate is all about. That is what Senator Marshall is— (*Time expired*)

Senator POLLEY (Tasmania) (3.29 pm)—I rise to take note of the answers given by the minister, Senator Abetz. I was accused of scaremongering in the Tasmanian media last weekend, but I stand by my belief. The Work Choices and Welfare to Work bills are the inbred children of a mean and out-of-touch Howard government. If given a chance, these bills will mature and resemble their Uncle Sam in all his ugliness. This government has made it clear that it has no intention of listening. Isn’t it time that John Howard and his arrogant government stopped and listened? If they did, they would hear why women, especially, are concerned about these changes. If they had listened, they would have heard the good people from St Vincent de Paul and the Uniting Church express their concerns about child-care places for people forced back into work under the Welfare to Work proposal.

What guarantees are there that children will not be forced to move schools to access after-school child care? Parents on income support cannot afford top-end child care, and this government must know that the promised funding for more child-care places will not go anywhere near meeting the needs of the people trying to participate in work, education and training. Australia will go back to the dark old days of the latchkey child. Australian children will be shuffled between child-care providers, parents will become desperate, and children will suffer—just like America. Is that what we want—a society like America? Because that is what John Howard’s blind government is engineering: a little America, where the dollar and the gun speak, and the poor, children and the elderly are left to fend for themselves. These are survival-of-the-fittest politics and this is an arrogant government. These changes are not

the policy of a government committed to a fair go. What happens when this Welfare to Work bill becomes law alongside its Work Choices cousin?

What will happen to disabled persons in Australia’s dismal workplace future? How timely it is, I do not think, to be debating this bill before the pending International Day of Disabled Persons on 3 December. Who will bargain for the rights and conditions of disabled persons? Who will make sure that they are not being ripped off by a greedy boss? Who will make sure that their workplace is safe? How will people who suffer severe anxiety find their way to work? A mildly disabled person living in regional Tasmania will still be expected to commute up to 40 kilometres to a job. The proposed wage subsidy scheme offering financial incentives for employers to employ people with disabilities will be rorted—you know that. And the supported wage system, where people with disabilities are paid according to their level of productivity, in an open workplace leaves the most vulnerable of Australians open to exploitation. Disabled Australians will be exploited. They have always been exploited, and this is a cruel law.

A job must be a pathway. Single parents and recipients of other benefits must be supported in their efforts to create a brighter future for their families. But Welfare to Work is about cost-cutting. It will create an invisible underclass of workers with no bargaining rights. What will happen to the single mother who cannot cope with her new job? What will happen when her children get sick? Kids will still get sick, even when the industrial landscape changes. So what will happen when a single mother has negotiated away her rights to parental leave? We all know what will happen: the single mother will be sacked because she is taking too much time off work. There will be no such thing as un-

fair dismissal, and she will have no benefit to fall back on.

This is law-making at its cruellest. We all want to see people on benefits offered opportunities to study, work and expand their horizons. Not everyone can cope with the intellectual or physical workload of raising a family and working. Not all parents can cope with a couple of days of work on top of raising their children. Some parents have trouble just making it through the day. They do not have the ability to study or even consider part-time work. (*Time expired*)

The DEPUTY PRESIDENT—The question is that the motion moved by Senator Lundy be agreed to.

Question agreed to.

Nuclear Energy

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.35 pm)—I move:

That the Senate take note of the answer given by the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) to a question without notice asked by Senator Allison today relating to nuclear energy.

I raised an issue concerning the proposal made by Minister Nelson for \$1 million to be wasted telling us something that we already know. The minister accuses me of not having an open mind on this subject. I do not have an open mind on it because I have already done the work. A great deal has been written and said on this subject, and most of it indicates that this is the wrong path for Australia to go down.

Most recently, Professor Ian Lowe, ACF president, spoke at the National Press Club in October. He said that he did doctoral studies at the University of York, supported by the UK Atomic Energy Authority and, at the time, he said:

... like most young physicists, I saw nuclear power as the clean energy source of the future.

But, he went on to say,

I want to tell you today why my professional experience has led me to reject that view.

He went on to talk at great length about the need for us to seriously tackle climate change, and to reduce our greenhouse emissions massively. He said:

We need to reduce global greenhouse pollution by about 60 per cent, ideally by 2050.

And:

Our eventual goal will probably be to reduce our greenhouse pollution by 80 or 90 per cent.

That is massive. What we do know is that we have to give up, eventually—and the sooner the better—on fossil fuels. We do know that nuclear power is not going to be the answer to all of the dreams of those sitting opposite us in this chamber. So we have to move away from coal. As I said, it is by far the worst offender, according to Professor Lowe, as a greenhouse emitter.

But, as he points out, the economics of nuclear power just do not stack up. During the first 15 years of development, nuclear subsidies amounted to \$15.30 per kilowatt hour generated. That compares with a figure for wind of 46c per kilowatt hour during its first years of development. He says:

Reactors go over budget by billions, decommissioning of plants is so difficult and expensive that power stations keep operating past their useful life, and there is still no solution for radioactive waste.

As I said in my question, it would be at least 15 years—some say 25 years—by the time you go through all the processes for a reactor to be up and running. We just cannot afford to wait that length of time before drastic change is made in the way that we generate, and use, electricity.

The other point that he makes—and I think this is a really good one—that is often not debated and not understood is that there is a limited supply of uranium. Australia may

have 40 per cent of the world's known reserves, but they are not going to last very long, especially if there is an increase in generation in countries like China. The best estimate is that known high-grade ores could supply the present demand for 40 to 50 years. If, as I said, we had that 15 per cent increase to replace all of the coal-fired power stations, the resources would only last about a decade or so, so it is not a long-term prospect. It is certainly a long-term prospect or at least medium-term prospect to get up but, at the end of the day, we cannot assume that uranium will fill the gap. It is a finite resource just as coal, gas and oil are. Renewable energy is the only infinite energy option. There is no question about that. So it is absurd that we should be wasting money in this way.

As I understand it, the subject is being debated in a House of Representatives committee. At the very least, the government should wait until that committee brings down its findings, but something tells me that that will be tainted by the attitude that we must not go to renewables because that is the sort of thing that conservation groups and people at this end of the Senate chamber would argue for and not something that real men advocate when it comes to energy futures. But there is no question in my mind that to go down this path would be foolish in the extreme, and there is plenty of evidence that is available to anyone in this place that demonstrates that point. It is both surprising and disappointing that Minister Nelson, our minister for science, should come up with this proposal. It is not the future for Australia, and no doubt we could have a debate in this chamber which would give us the time to go through all those arguments. *(Time expired)*

The DEPUTY PRESIDENT—Order! The time for the debate has expired.

Question agreed to.

PETITIONS

The Clerk—A petition has been lodged for presentation as follows:

Workplace Relations

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

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

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

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

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

by **Senator McLucas** (from 607 citizens).
Petition received.

NOTICES

Presentation

Senator Humphries to move on the next day of sitting:

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

Senator Scullion to move on the next day of sitting:

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

Senator Bartlett to move on Wednesday, 7 December 2005:

That the Senate—

- (a) notes that:
 - (i) 8 December 2005 is the 30th anniversary of the first official broadcast of community radio station 4ZZZ-FM from studios at the University of Queensland,
 - (ii) 4ZZZ was the first FM stereo radio station in Queensland, the first public broadcaster in Australia with journalists accredited by the (then) Australian Journalists Association, and the first mass-audience format public broadcaster in Australia, and
 - (iii) 4ZZZ has provided and continues to provide an important means of exposure for many Brisbane musicians, and an important independent local outlet for information and news;
- (b) congratulates all those involved in establishing and maintaining this pioneering community-based radio station, now broadcasting from studios in Fortitude Valley in Brisbane; and

- (c) expresses support for the ongoing development of community broadcasting in Australia as an important component in ensuring the community has access to a diverse and adequate range of information and entertainment.

Senator Allison to move on the next day of sitting:

That the Senate—

- (a) notes the initiative of the People's International Peace Summit in London in November 2005, calling for the creation of Departments of Peace in governments throughout the world in response to the increase in violence of all kinds worldwide, the urgent need to find responsible solutions, expanding on past and present peace-building successes; and
- (b) urges the Government to consider establishing a Department of Peace within the Australian Government, the basic functions of which would be to:
 - (i) foster a culture of peace,
 - (ii) research, articulate and help bring about non-violent solutions to conflicts at all levels, and
 - (iii) provide resources for training in peace-building and conflict transformation to people everywhere.

Senator Siewert to move on the next day of sitting:

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

Senator Bartlett to move on Thursday, 1 December 2005:

That Schedule 7 of the Migration Amendment Regulation 2005 (No. 8), as contained in Select Legislative Instrument 2005 No. 221 and made under the *Migration Act 1958*, be disallowed.

Senator Ellison to move on the next day of sitting:

That the Anti-Terrorism Bill (No. 2) 2005 and the Telecommunications (Interception) Amendment (Stored Communications and Other Measures) Bill 2005 may be taken together for their remaining stages.

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes:

- (i) the admission by the Pentagon that forces of the United States of America (US) used white phosphorus weapons in the 2004 assault on the Iraqi city of Fallujah,
 - (ii) that the recent Arab League sponsored Iraqi National Accord Conference held in Egypt demanded the ‘withdrawal of foreign forces in accordance with a timetable’, and
 - (iii) that US Democrat Representative John Murtha, reflecting US public opinion, has described the Iraq occupation as ‘a flawed policy wrapped in illusion’ and has called for the ‘immediate redeployment of US troops’; and
- (b) calls on the Government to withdraw Australian troops from Iraq.

Withdrawal

Senator EGGLESTON (Western Australia) (3.41 pm)—Pursuant to notice given on the last day of sitting, on behalf of Senator Watson and the Standing Committee on Regulations and Ordinances, I now withdraw business of the Senate notices of motion Nos 1, 2 and 3 standing in his name for today and business of the Senate notices of motion Nos 1 and 2 standing in his name for seven sitting days after today.

Presentation

Senator Bob Brown to move on the next day of sitting:

That the Senate expresses its abhorrence of the death penalty.

COMMITTEES

Employment, Workplace Relations and Education Legislation Committee

Extension of Time

Senator EGGLESTON (Western Australia) (3.42 pm)—by leave—At the request of the Chair of the Employment, Workplace Relations and Education Legislation Committee, Senator Troeth, I move:

That the time for the presentation of the report of the Employment, Workplace Relations and Education Legislation Committee on the Commonwealth Radioactive Waste Management Bill 2005 and a related bill be extended to 29 November 2005.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

General business notice of motion no. 298 standing in the name of Senator Stott Despoja for today, proposing the introduction of the Privacy (Equality of Application) Amendment Bill 2005, postponed till 5 December 2005.

General business notice of motion no. 318 standing in the name of Senator Siewert for today, relating to the Japanese whaling program, postponed till 30 November 2005.

NUCLEAR NON-PROLIFERATION TREATY

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.43 pm)—I move:

That the Senate—

(a) notes and welcomes:

- (i) the L28 resolution, ‘Renewed determination towards the total elimination of nuclear weapons’, sponsored by Australia, Bangladesh, Chile, Italy, Japan, Nepal, Nicaragua, Spain, Switzerland and Ukraine and passed by the United Nations (UN) General Assembly First

- Committee with unprecedented support and only India and the United States of America (US) voting against it, and
- (ii) the L26 resolution on the Comprehensive Nuclear-Test-Ban Treaty (CTBT) sponsored by Andorra, Australia, Czech Republic, Finland, Mexico, New Zealand and South Africa and was passed with only the US voting against it;
- (b) notes that resolution L28:
- (i) calls for the nuclear weapon states to further reduce the operational status of nuclear weapons systems in ways that promote international stability and security,
 - (ii) encourages further steps leading to nuclear disarmament, to which all states party to the Nuclear Non-Proliferation Treaty (NPT) are committed under Article VI, including deeper reductions in all types of nuclear weapons, and emphasises the importance of applying irreversibility and verifiability, as well as increased transparency in a way that promotes international stability and undiminished security for all, in the process of working towards the elimination of nuclear weapons,
 - (iii) encourages the Russian Federation and the US to implement fully the Treaty on Strategic Offensive Reductions and to undertake nuclear arms reductions beyond those provided for by the treaty, while welcoming the progress made by nuclear weapon states, including the Russian Federation and the US on nuclear arms reductions,
 - (iv) urges all states that have not yet done so to sign and ratify the CTBT at the earliest opportunity with a view to its early entry into force, and stresses the importance of maintaining existing moratoriums on nuclear weapon test explosions, pending the entry into force of the CTBT,
 - (v) calls on states not party to the NPT to accede to it as non-nuclear weapon states without delay and without conditions and, pending their accession, to refrain from acts that would defeat the objective and purpose of the NPT, and to take practical steps in support of the treaty,
 - (vi) emphasises the importance of the immediate commencement of negotiations on a fissile material cut-off treaty (FMCT) and its early conclusion, and calls on all nuclear weapon states and states not party to the NPT to declare moratoriums on the production of fissile material for any nuclear weapons, pending the entry into force of the FMCT,
 - (vii) calls on all states to redouble their efforts to prevent and curb the proliferation of nuclear and other weapons of mass destruction (WMD) and their means of delivery, and
 - (viii) stresses the importance of further efforts for non-proliferation, including the universalisation of International Atomic Energy Agency comprehensive safeguards and the Additional Protocol on strengthened safeguards, and the full implementation of UN Security Council resolution 1540; and
- (c) reaffirms the importance of:
- (i) the continued development of the CTBT verification regime, including the international monitoring system,
 - (ii) all states party to the NPT complying with their obligations under all the articles of the treaty, and stresses the importance of an effective treaty review process and the universality of the NPT,
 - (iii) the early entry into force of the CTBT and of all efforts made by Australia to further that aim,
 - (iv) the nuclear disarmament and non-proliferation goals and the balanced approach to nuclear disarmament and non-proliferation contained in the final document of the 2000 NPT Review conference and the L28 resolution, and

- (v) international efforts to prevent the acquisition and the use by terrorists of nuclear or other WMD, and radioactive materials and sources, including strengthened international protection of WMD-usable materials and relevant equipment, facilities and technology.

Question agreed to.

KYOTO PROTOCOL

Senator MILNE (Tasmania) (3.43 pm)—

I move:

That the Senate—

- (a) notes the ‘call to action’ endorsed by the Assembly of Movements of the World Social Forum for an international demonstration on climate change on Saturday, 3 December 2005; and
- (b) endorses the demand that Australia ratify the Kyoto Protocol immediately, and that the entire world community move as rapidly as possible to a stronger emissions reductions treaty that will be both equitable and effective in stabilising greenhouse gases and preventing climate change.

Question put:

That the motion (**Senator Milne’s**) be agreed to.

The Senate divided. [3.48 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes.....	33
Noes.....	<u>37</u>
Majority.....	4

AYES

Allison, L.F.	Bartlett, A.J.J.
Bishop, T.M.	Brown, B.J.
Brown, C.L.	Campbell, G. *
Carr, K.J.	Conroy, S.M.
Crossin, P.M.	Evans, C.V.
Faulkner, J.P.	Forshaw, M.G.
Hogg, J.J.	Hurley, A.
Kirk, L.	Ludwig, J.W.
Lundy, K.A.	Marshall, G.
McEwen, A.	McLucas, J.E.
Milne, C.	Moore, C.

Murray, A.J.M.	Nettle, K.
O’Brien, K.W.K.	Polley, H.
Siewert, R.	Stephens, U.
Sterle, G.	Stott Despoja, N.
Webber, R.	Wong, P.
Wortley, D.	

NOES

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

PAIRS

Hutchins, S.P.	Watson, J.O.W.
Ray, R.F.	Ferris, J.M.
Sherry, N.J.	Colbeck, R.

* denotes teller

Question negated.

NOTICES

Postponement

Senator MURRAY (Western Australia) (3.52 pm)—by leave—I move:

That general business notice of motion No. 317 standing in my name for today, relating to the reform of Australia’s time zones, be postponed until the next day of sitting.

Question agreed to.

FREE TRADE AREA OF THE AMERICAS

Senator NETTLE (New South Wales) (3.53 pm)—I move:

That the Senate—

(a) notes:

- (i) the recent widespread protest and opposition across Latin America to the President of the United States of America (US), George W Bush and his proposed Free Trade Area of the Americas,
 - (ii) the concern of Latin Americans that such an agreement would reinforce economic inequality in the region and political domination by the US, and
 - (iii) the failure of American leaders to agree to further negotiations on the agreement; and
- (b) commends the Argentinean people and Latin American leaders for their campaign to defend their culture and economies from the threat of a Free Trade Area of the Americas.

Question negatived.

Senator Nettle—I would like it noted that the Greens were the only senators to support that motion.

The DEPUTY PRESIDENT—That will be noted.

DOCUMENTS

Tabling

The DEPUTY PRESIDENT (3.54 pm)—Pursuant to standing orders 38 and 166, I present documents listed on today's *Order of Business* at item 11 which were presented to the Deputy President and temporary chairs of committees since the Senate last sat. In accordance with the terms of the standing order the publication of the documents was authorised.

The list read as follows—

Committee report

Employment, Workplace Relations and Education Legislation Committee—Report, together with Hansard record of proceedings and documents presented to the committee, on the provisions of the Workplace Relations Amendment (Work Choices) Bill 2005 (received 22 November 2005)

Government response to parliamentary committee report

Foreign Affairs, Defence and Trade References Committee—Duties of Australian personnel in Iraq (received 16 November 2005)

Government documents

Department of Defence—Annual report 2004-05 (received 11 November 2005)

Indigenous Business Australia—Annual report 2004-05 (received 15 November 2005)

Administrative Appeals Tribunal—Annual report 2004-05 (received 16 November 2005)

Australian Sports Commission—Annual report 2004-05 (received 16 November 2005)

Private Health Insurance Ombudsman—Annual report 2004-05 (received 16 November 2005)

AUSTRAC—Annual report 2004-05 (received 23 November 2005)

Reports of the Auditor-General

Report no. 15 of 2005-06—Administration of the R&D Start Program: Department of Industry, Tourism and Resources—Industry Research and Development Board (received 15 November 2005)

Report no. 16 of 2005-06—Management and processing of leave (received 17 November 2005)

In accordance with the usual practice and with the concurrence of the Senate I ask that the government responses be incorporated in *Hansard*.

The government response read as follows—

GOVERNMENT RESPONSE TO THE SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE

'Duties of Australian Personnel in Iraq'

Recommendation 1

The committee recommends that the ADF review its procedures for instructing personnel about the various codes of conduct, ADF's instructions or Concepts of Operations governing the conduct of Australian personnel while engaged in overseas operations especially where Australian personnel

are deployed with third country operations. All Australian personnel must be made aware of their obligations with regard to human rights issues which includes their obligation to report any activity that seems illegal.

Government Response:

Agreed. Defence already regularly reviews its procedures for instructing personnel about Australia's domestic and international legal obligations and national policy governing the conduct of Australian personnel while engaged in overseas operations. All Defence personnel are instructed to report any suspected abuse observed on overseas operations no matter how it comes to their attention.

For ADF personnel on a third country deployment, Defence legal staff continue to examine relevant host nation laws and policies to determine whether they accord with Australia's international and domestic legal obligations. ADF members proceeding on a third country deployment are given a legal brief on Australia's legal and policy requirements as well as a personalised directive at the commencement of that deployment. This brief and directive includes advice on Australia's obligations under international and domestic law and a direction for any ADF member who becomes aware of an incident that might breach Australia's international obligations to immediately notify that concern or involvement through their chain of command.

Ordered that the report of the Employment, Workplace Relations and Education Legislation Committee be printed.

Responses to Senate Resolutions

The DEPUTY PRESIDENT—I present a response, from the High Commissioner of the Republic of Singapore (Joseph K H Koh), to a resolution of the Senate of 8 November 2005 concerning Mr Nguyen Tuong Van.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.55 pm)—by leave—I move:

That the Senate take note of the document.

It is, of course, a matter of public comment in Australia that Mr Nguyen is facing execution this Friday in Singapore. He faces execution in relation to a conviction for drug trafficking of heroin. Just under half a kilo of heroin was involved. It appears that all avenues have been exhausted and that the Singaporean government's refusal of clemency stands firm. I want to place on record the history of the action that this government and others have taken in relation to avoiding Mr Nguyen's execution.

At the outset, the conviction was for a serious offence; no-one denies that. In fact, in Australia it would attract condign punishment and would no doubt attract a maximum of life imprisonment or, indeed, a very lengthy term of imprisonment. But this and previous Australian governments have made their views very plain in relation to the execution of Australian citizens—that is, we do everything possible to avoid that from being carried out. It is not the policy of this government that there be a death penalty, and it is something which is not practised domestically in Australia. We believe that our approach overseas is consistent with our domestic practice in that when one of our citizens faces the possibility of a death sentence, we do everything possible to avoid it.

I first raised this matter with the Singaporean government on a visit to Singapore on 16 December 2002, which was a matter of days after Mr Nguyen's arrest. When looking at the contact that I have had with my ministerial counterparts and other ministers from the Singaporean government, I believe I have raised this issue on no less than five occasions over that intervening period of three years. The Prime Minister himself has said that he has raised it with the Singaporean Prime Minister on some five occasions, and in March this year strong representations were made to the President of Singapore, President Nathan, by the Governor-General,

the Prime Minister and the Minister for Foreign Affairs, Alexander Downer.

The Australian Minister for Foreign Affairs, Alexander Downer, has raised this issue on repeated occasions, personally and in writing. I recently wrote to the Singaporean government myself, making a plea for clemency in this matter. In total, more than 30 written or personal government representations have been made to the Singaporean government regarding Mr Nguyen. Such is the extent of action taken, dating back from just a few days after his arrest to this point in time, when we face a matter of days before the execution is to be carried out.

I also place on the record that the Australian government has been examining all the legal options that might prevent Mr Nguyen's execution. Firstly, we have been looking at the International Court of Justice. Alexander Downer, the Minister for Foreign Affairs, has spoken on several occasions with Mr Lex Lasry and others who represent Mr Nguyen about the possibility of an action in the International Court of Justice. There are, however, no grounds to compel Singapore to come before the International Court of Justice. The Prime Minister asked the Singaporean Prime Minister whether Singapore would accept the jurisdiction of the court and he replied in the negative.

Singapore has not recognised the compulsory jurisdiction of the International Court of Justice, except under a very limited number of treaties. None of these treaties can assist in Mr Nguyen's case. This assessment is based on legal advice from senior lawyers both within and outside government. Given the gravity of the situation, independent legal advice was also sought from James Crawford, a highly renowned professor of international law at the University of Cambridge. Unfortunately, the advice that we have received from Professor Crawford and our own

officials is that there could be no basis for taking Singapore to the International Court of Justice unless Singapore consented to that action. The Prime Minister raised the issue of Singapore's consent with Singaporean Prime Minister Lee in Malta recently. The Prime Minister of Singapore's answer was very clear: Singapore will not agree to a case proceeding before the International Court of Justice.

Recently, a senior counsel wrote to me in relation to the possibility of Australia requesting Mr Nguyen's extradition from Singapore. I have replied to senior counsel advising that Australia can only make an extradition request for an offence against Australian law and a warrant must have been issued for that person's arrest. I am advised that, on the evidence available, any offence Mr Nguyen might be charged with in Australia, including conspiracy, would depend upon the acts or omissions which have formed the basis of his conviction under Singapore law. In these circumstances, where it is clear that the defence of double jeopardy would be very likely to succeed, it is not appropriate for charges to be laid.

The power to make an extradition request exists for the purpose of pursuing the legitimate interest of a country in ensuring the effective operation of its criminal justice system. While the Australian government has made it clear that it will pursue any available avenue to prevent this execution taking place, this cannot extend to the exercise by the government of its legislative and executive powers other than in good faith. Even if Australia could make an extradition request to Singapore, the Singaporean government would not be compelled to surrender Mr Nguyen. There is a discretion which resides with the minister concerned, just as we have here under our law in Australia. It is with great regret that it seems that all legal ave-

nues which might prevent Mr Nguyen's execution have been examined and exhausted.

The government wants to place on record its appreciation for the lawyers involved—Lex Lasry, Don Rothwell and Chris Ward—for bringing their suggestions to the government's attention, for the discussions that they have had with the government and, of course, for the time that they have spent on this case. Unfortunately, it seems that the only thing now that can save Mr Nguyen's life is if Singapore was to grant him clemency—but, of course, that it has declined to do. I note that Singapore has granted clemency to only two drug traffickers in the past 40 years, and both cases involved exceptional circumstances. So what we have is a precedent where, in the last 40 years, only two people convicted of drug trafficking have been granted clemency.

We have the correspondence addressed to the President from Mr Joseph Koh, the High Commissioner of the Republic of Singapore, which sets out very clearly Singapore's position in relation to this matter. Whilst we do not for one minute condone the serious acts for which Mr Nguyen has been convicted, we again say that it is Australia's strong view that we do not believe in capital punishment. It is not a matter of domestic policy in this country, and where we have any Australian citizen overseas who may be subjected to capital punishment we do everything possible to prevent that being carried out. I think this government in what it has done has demonstrated that resolve. It has gone to great lengths to prevent this execution being carried out. I believe that, if there were anything further we could do, we would do it, but it does seem as though all avenues have been exhausted—and, unfortunately, the outlook is pessimistic.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Sen-

ate) (4.05 pm)—I rise on behalf of the Labor Party to make some brief comments on the response the President of the Senate received from Mr Joseph Koh, the High Commissioner for Singapore, regarding the resolution of the Senate of 8 November 2005 which called on the government of Singapore to spare the life of Mr Nguyen. We deeply regret and are bitterly disappointed by the fact that the Singaporean parliament has rejected the views of the Australian Senate and, I think more broadly, the views of the Australian people.

We in Australia are seeking to do everything we can in defence of one of our citizens who we believe has received a sentence that is disproportionate to the crime he has committed. While we agree with the government of Singapore that Mr Nguyen has been convicted of a serious crime, and we respect the government of Singapore's rights and responsibilities to protect its people from the harm caused by such crimes, we find it difficult to accept that the taking of Mr Nguyen's life is a proportionate penalty in all the circumstances. Mr Nguyen has never denied his guilt. Indeed, he admitted his crime immediately upon capture. He has assisted the Australian Federal Police with their inquiries into the crime syndicate which recruited him and organised his trip. He has demonstrated genuine contrition and remorse for his crime and he has no previous criminal convictions.

Mr Nguyen is a young man of only 25 years. He was born in a Thai refugee camp, one of twins born to a simple and virtuous woman who was a Vietnamese refugee to Australia in the 1980s. Despite a hard life of poverty, Mr Nguyen was a good child who worked late evenings during his school years to help support his family financially. In all the circumstances, we believe that the death penalty is disproportionate to both Mr Nguyen's crime and his personal history,

particularly in light of the fact that it is his first offence, that he has demonstrated contrition and repentance and that he has assisted the Australian Federal Police in their investigations into those who organised his trip.

We are particularly disappointed that the government of Singapore has failed at any point to provide detailed responses for its decision to reject the pleas for clemency in this case. We do not simply ask that this man's life be spared because he is an Australian citizen; we ask that it be spared because there are legitimate legal and policy grounds for doing so. Indeed, the constitution of Singapore explicitly provides for pleas of clemency in death penalty cases. We are disappointed not only that Australia's pleas on Mr Nguyen's behalf have been rejected but also that the government of Singapore has failed to provide reasons for its decision making. Mr Nguyen's lawyer, Mr Lex Lasry QC, has made the point that the government of Singapore's response to a 70-page submission was one paragraph long. The government of Singapore has not made any pretence of debating the merits of the case or responding to the legal arguments that have been made.

I have long been an opponent of the death penalty. Having had some experience of a family of a very close friend whose father suffered that fate, I understand very personally the effect that it can have on families and others, not just the individual. The Australian Labor Party are totally opposed to the death penalty, but we particularly object to the policy adopted by the Singaporean government of imposing a mandatory death sentence in drug cases. We believe this policy breaches fundamental human rights as set out in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights.

It is difficult to understand in this day and age how a developed, sophisticated nation such as Singapore can continue the barbaric practice of execution by hanging. For this reason we believe that there is a strong case against Singapore under international law. For this reason we urge the government to initiate immediately proceedings against Singapore in the International Court of Justice. The International Court of Justice has available to it the ability to grant provisional measures. In other words, it has the ability to grant a stay of execution.

I understand that some in the government are saying that there is no point bringing such an action because Singapore will not accept the jurisdiction of the court. Our argument is: let Singapore do that. It is not for us to decide what Singapore will do in advance; it is for Singapore to decide. It is for Singapore to explain publicly why they would not accept the jurisdiction of the international court when they have already accepted the international court's jurisdiction in a territorial dispute with Malaysia. If Singapore proceed to reject the jurisdiction of the court, let them say so in their own words. Let them front the court of international public opinion at the same time and explain why the international court is appropriate to arbitrate a boundary dispute with Malaysia but not to arbitrate a matter concerning the life of an Australian citizen.

Labor's view is that where there is life there is hope. Where there is a reasonable legal case to advance, we should advance it. Where there is a strong diplomatic argument to advance, we should advance it. That is what Labor and, I hope, this parliament will continue to do. We ought to keep trying as hard as we can until there is no longer any possibility of saving this young man's life.

Senator BOB BROWN (Tasmania) (4.10 pm)—On Friday morning an Australian citi-

zen will, according to precedent, be taken from his cell in Changi prison at about 2 o'clock and, after four hours of cruel pantomime, be put to death by the cruel, medieval process of hanging by the neck. In the intervening four hours he will be put through a ritual to gratify the judicial killers who are in charge of the process, having a light meal, being dressed in a suit and having photographs taken in various poses—including behind a desk and standing against the wall—so that these photographs can be passed on to a mother who, in the meantime, will be banned from hugging her son on the way to this ritualistic, barbaric and entirely unjustified destruction of a young life on the premises.

The salient point that needs to be made at the outset is that young Van Nguyen's murder on Friday morning will not decrease the extraordinarily foolish, illegal and criminal tendency of people to move drugs around the world. The experience in Australia is that capital punishment does not deter crime, and the statistics in the United States show the same. It simply feeds an ancient instinct which is not part of civilised society—that, in some way, by killing other people you put an end to a practice that the society disapproves of. That is proven to be wrong, but apparently the self-satisfied Singaporean authorities are still clinging to this delusion.

The Singaporean High Commissioner, Joseph Koh, has written back to the Senate to say that Singapore deeply regrets 'that Australians are disappointed by its decision'. He is not listening. What an insult to this chamber, and to this country, to phrase the feeling of anger and outrage that is abroad as 'disappointment'. That paternalistic attitude from this autocratic government in Singapore is an insult to this chamber. The letter goes on to say, 'I hope you will understand the need for Singapore to uphold its laws.' That is right, but the law is wrong. Murder is not justified

and, whatever faith Mr Koh, President Nathan or Prime Minister Lee may have, they might dwell on the dictum, 'thou shalt not kill', because they are breaching that on this occasion and every time they kill.

On a per capita basis, Singapore kills at a rate above that of practically any other country in the world. Yet, extraordinarily, here is a country which, per capita, does more business than any other country with one of the biggest illegal producers and exporters of drugs in the world—Myanmar, or Burma. So at an official level the Singaporean authorities—the very men who are carrying out this vicious, unwarranted and inhuman killing of an Australian citizen on Friday morning—are dealing with the very people from whom the drugs that were carried by this young fellow are sourced. One might ask: what is their deterrent action against the corrupt military authorities suppressing democracy in Myanmar? The answer is: more trade with the very people who are promoting and pushing drugs onto the world market. This is a government of high hypocrisy trying to moralise with this chamber of this elected democracy that it deeply regrets that we are disappointed by its decision.

The death penalty is not warranted. A mandatory death sentence is an appalling affront to proper human conduct, wherever it may be, and it does not serve the purpose of deterring crime. The young man, his mother who cannot hug him and his friends, who can only see him through a glass wall, are being put through a cruel, inhuman and unjust charade, ending in murder, which should have been relegated to the Middle Ages. It has no place in this modern world, where we know better and should behave better. The letter is an affront to the Senate. I reject it. I will be there with others outside the Singaporean high commission on Friday morning as this murder proceeds, to bear witness not just to the life of a young man being taken away in

this barbaric fashion but to the need for all of us this in this world to value life more highly and not join the criminality which is used as the excuse for this inexcusable end of a life.

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (4.17 pm)—On behalf of The Nationals I would like to make a few comments in response to the Singaporean high commissioner. The Senate is debating the tabling of the response from the High Commissioner for Singapore to the Senate's resolution of 8 November on Van Nguyen. The Australian government has been at pains to do all it can to help this unfortunate young Australian escape the death penalty. Not just in the previous month but in fact for two years the government, through the foreign minister, has been actively trying to prevent an execution.

Our television screens have broadcast the grief of the man's family and friends and, notably, the emotional cross-faith services that pray for his life. The value of life is held high in Australia. The Australian community has united in its concern for the life of drug smuggler Van Nguyen and has given every support to his family and friends. We are speaking in what may well be the last week of this young man's life. Everyone is acutely aware of this. Everyone is sad if a life, particularly a young life, cannot proceed to its natural end. Australians are hopeful people, believing that transgressions do not mean the end of life or hope. I personally believe that the death penalty is wrong. It is state-sanctioned murder. Other countries, like Singapore and even the United States, do not share these beliefs. That is the stark reality. They put their own people to death. We have to ask: why would they spare ours?

The foreign minister, Alexander Downer, noted on 4 November:

We've been working on this not just for the last few weeks, but for well over a year, trying to en-

courage the Singapore President to grant clemency and ... despite all our efforts from the Governor-General to the Prime Minister and a whole lot of Ministers and others making representations, we've been unsuccessful. That's not surprising in the circumstances because in Singapore they not only have the death penalty—and many countries do—but they execute between 30 and 40 people a year, not all of them for drug trafficking but they are very tough on drugs, and I think everyone knows that in South-East Asia, but as usual we always put in an enormous effort for the Head of State of the relevant country to grant clemency and we have certainly made a massive effort for Van Nguyen.

The community has also done a lot of work—for example, the Amnesty International campaign, the church services, the advertisements in newspapers, the letter writing and so on. The parliament has also done what it can. But, as the foreign minister pointed out earlier this month, the Singaporean government have been subject to public campaigns of this kind from other countries on many occasions over many years.

Mr Nguyen is not alone in flouting the tough anti-drug laws of foreign countries. The government managed successfully to run a campaign to get clemency for one case in Vietnam, but she will end up in prison for the whole of her life. There are a couple of others on death row in Vietnam now, and we are appealing for clemency for them. Unfortunately, there are not special laws for Australians in other countries. Our young people must stop being so naive as to think they can escape the harsh justice systems of these countries. The Singaporean government is hanging its own people for drug trafficking. It would be hard to explain how it could grant clemency.

The foreign minister has also been advising the Governor-General to use the royal convention to lobby his counterpart, the Singaporean President. We had a visit to Australia by the President of Singapore earlier this

year, and the direct counterpart in Australia of the President of Singapore is the Governor-General. The Governor-General was very strong in the representations he made to the Singaporean President at that time, and the Prime Minister and foreign minister also spoke to the Singaporean President about this issue then.

While hope is important, especially to Australians, we must face the fact that the Singaporean cabinet have considered all arguments and said they would proceed with the execution. As the foreign minister said recently, we will leave no stone unturned but we remain very pessimistic. It does our country credit that we stand up so strongly against the death penalty. Let us hope that this sends a signal that others in the international community will also come to understand: that life is a precious, God-given gift and, as such, not for man to deliberately destroy.

Senator STOTT DESPOJA (South Australia) (4.22 pm)—by leave—I rise on behalf of the Australian Democrats in the capacity of their Attorney-General's and foreign affairs spokesperson, but also as one of the co-conveners of the federal parliamentary working group against the death penalty. That is a cross-party group. I acknowledge that the sentiments being expressed today are across party lines, and that is an important message to send to the Singaporean government, and indeed to the region and to the world.

I rise to express my personal and my party's sadness, grief, anger and frustration at the proposed execution of Van Nguyen this week. I believe that the death penalty is barbaric and unacceptable in any circumstances. While I understand the notion of respect for differing jurisdictions and different countries, I do not respect state sponsored killing in any way under any circumstances.

The Australian Democrats point out that Australia has an obligation because in July 1991 we ratified the second optional protocol to the International Covenant on Civil and Political Rights, which aims at the abolition of the death penalty. It enshrines a desire for us as a nation and other countries around the world to commit to supporting the aim of the protocol. That does not mean just being an abolitionist nation; we have an obligation to work towards the abolition of the death penalty in countries around the world. It is possible. We can realistically aim for that and see other countries—like Singapore, perhaps—join the other 121 nations that have abolished the death penalty in law or in practice. There is hope. We cannot be defeatist about this specific case—or any other for that matter.

This is not about the special rights of an Australian citizen; it is about condemning the death penalty, whether we are talking about our citizens or those of any other country. The death penalty is the ultimate abuse of human rights. It not only deprives a person of their right to live but subjects them to the cruellest, most inhumane and degrading form of torture. Senator Evans's comments about the victims were particular apt. There are some proponents, in our land and elsewhere, who urge us to think of the victims of a crime when the death penalty is being imposed. However, the death penalty simply creates more victims. Van Nguyen's mum is a victim; the family is a victim. This execution will be felt within the community and their family for generations to come. It is a never-ending punishment for the family and friends of those who are executed.

The Democrats, like many others in this place, have made clear our views. We have lobbied the Singaporean high commissioner in person. We have obviously been keen for this issue to be taken up through CHOGM, through the ICJ and through economic, trade

and diplomatic efforts. We acknowledge the diplomatic efforts of this government, but we express our desperation at this time—five minutes to midnight—and request that if there is anything our government can do, they do it. That includes making very clear, as senators in this place have done and Minister Ellison just did, that we abhor capital punishment. We have an obligation to do so. The death penalty degrades everyone who consents to it or ignores it. The least we can do today and this week—and in our behaviour on Friday and beyond—is to try to show its enormity.

Senator FIELDING (Victoria—Leader of the Family First Party) (4.27 pm)—by leave—Firstly, I would like to say that our thoughts and prayers go out to Mr Nguyen and his family. Family First realises that a nation has the sovereign right to make its own laws. Australians need to be mindful when travelling overseas that many countries have harsher drug laws than Australia does. We have to be extremely careful. Putting all that to one side, a life is a life. Human life is too valuable to be wiped out by a sentence of death. Mr Nguyen's life should be spared. Family First would like to reiterate that we do not believe in capital punishment.

Question agreed to.

The DEPUTY PRESIDENT—I present a response, from the Premier of South Australia (Mr Rann), to a resolution of the Senate of 11 October 2005 concerning the Murray River.

PARLIAMENTARY ZONE

Proposal for Works

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (4.28 pm)—In accordance with the provisions of the Parliament Act 1974, I present proposals for works within the Parliamentary Zone, together with supporting documentation,

relating to the construction of kiosks in the parliamentary zone, and the installation of artworks at Reconciliation Place. I seek leave to give a notice of motion in relation to the proposals.

Leave granted.

Senator COLBECK—I give notice that, on Thursday 1 December 2005, I shall move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposals by the National Capital Authority for capital works within the Parliamentary Zone, being the construction of kiosks in the parliamentary zone, and the installation of artworks at Reconciliation Place.

BUDGET

Consideration by Legislation Committees

Additional Information

Senator JOHNSTON (Western Australia) (4.29 pm)—On behalf of the Chair of the Community Affairs Legislation Committee, Senator Humphries, I present additional information received by the committee relating to hearings on the 2005-06 budget estimates.

COMMITTEES

Public Accounts and Audit Committee

Report

Senator JOHNSTON (Western Australia) (4.29 pm)—On behalf of the Joint Committee of Public Accounts and Audit, I present the 405th report of the committee entitled *Annual report 2004-2005*, and seek leave to move a motion in relation to the report.

Leave granted.

Senator JOHNSTON—I move:

That the Senate take note of the report.

I seek leave to incorporate my tabling statement in *Hansard*.

Leave granted.

The statement read as follows—

Mr President, I am pleased to present the annual report of the Joint Committee of Public Accounts

and Audit. The annual report is an important accountability mechanism by which Parliament and, through it the public, can conveniently assess the Committee's performance.

The duties of the JCPAA are described in the Public Accounts and Audit Committee Act. In general terms, the duties are to:

- examine the financial affairs of authorities of the Commonwealth, and examine all reports of the Auditor-General;
- consider the operations and resources of the Audit Office;
- approve or reject the Prime Minister's recommendation for appointment of the Auditor-General and the Independent Auditor; and
- increase parliamentary and public awareness of the financial and related operations of government.

During 2004-05, despite the hiatus in activity due to the Federal Election, the Committee has fulfilled each of these responsibilities.

Committee inquiries

Unlike other Committees, the JCPAA can initiate its own policy inquiries without permission or reference to any Minister, government or the Parliament. During 2004-05 the Committee has undertaken two major policy inquiries.

Report 403, Access of Indigenous Australians to Law and Justice Services, was tabled in June 2005. The inquiry was initiated in March 2004, to further examine some issues raised by an ANAO Audit Report. The inquiry lapsed at the end of the 40th Parliament, but in December 2004 the new Committee re-initiated the inquiry. The Committee received a number of submissions and exhibits, and held public hearings across Australia.

The Committee's report included 17 recommendations aimed at ensuring that indigenous people have the best access to legal resources within available resources.

In May 2005 the Committee resolved to review developments in aviation security in Australia since the JCPAA's Report 400: Aviation Security in Australia, which was tabled in June 2004.

The Committee decided to re-open the inquiry in the light of a number of disturbing incidents in Australian aviation security since June 2004.

At September 2005, the Committee had received 71 submissions and had undertaken a number of public hearings and inspections. The Committee received briefings from Sir John Wheeler on the outcomes of his inquiry into aviation security, and is looking to build on these with further recommendations. The Committee intends to report during 2006.

Examine Auditor-General's reports

The Committee has been very busy during 2004-05 fulfilling its responsibility to review Auditor-General's reports. Prior to the election, the previous Committee tabled Report 402, which reviewed six Auditor-General's reports.

Following the election, the Committee resolved to complete a review of three Auditor-General's reports that had been started in the previous Parliament. In addition, the Committee selected a further eight new Audit Reports for a detailed examination. The Committee recently tabled Report 404 which outlines the Committee's findings on 11 Audit Reports, and makes 42 recommendations to improve agencies' efficiency and effectiveness.

A theme emerging in these Audit Reports is the need for APS agencies to be aware of their responsibilities for accountability, value-for-money contract management, and compliance with legislative requirements for financial management. These are issues the Committee intends to continue looking at over the next 12 months.

Consider the operations and resources of the Audit Office

In May 2005, the Committee reviewed the ANAO draft budget estimates for 2005-06. In his report to the Parliament on budget day, the Chairman stated that the Committee was satisfied that the ANAO had sufficient budget allocation for 2005-06, however was concerned that the ANAO may have to curtail some of its discretionary activities in future years. The Committee will continue to seek advice from the ANAO on its budget position throughout the year.

Approve the appointment of the Auditor-General

The Auditor-General Act 1997 established the Auditor-General as an "independent officer of the Parliament" with a 10-year term, and stipulated

that the Prime Minister, when nominating a new Auditor-General, must seek the JCPAA's approval of the nomination prior to recommending an appointment to the Governor-General.

Mr Pat Barrett AO served as the Auditor-General from March 1995. Under the Act, his 10-year term expired in March 2005. On 1st March 2005 the Prime Minister wrote to the Committee, nominating Mr Ian McPhee as the new Auditor-General.

This was the first occasion since the introduction of the Auditor-General Act that the JCPAA had been involved in the selection of an Auditor-General.

The Committee considered the Prime Minister's nomination, and unanimously agreed to endorse the nomination of Mr McPhee, a respected former Deputy Auditor-General.

The Committee would like to take this opportunity to thank Mr Pat Barratt for his service to the Parliament as previous Auditor-General, and again welcome Mr McPhee to the position.

Increase Parliamentary and public awareness

The Committee, chairman, and the secretariat have met with a number of parliamentary delegations and other groups, to promote the work of the Committee and the importance of the financial and public accountability framework.

During 2005 there has been some media attention concerning the rate of Governments responses to Parliamentary Committee reports. I note that over the last two Parliaments, the Government has responded to nearly 90 per cent of the 209 recommendations made by the JCPAA.

Of the recommendations responded to, the Government has supported some 85 per cent either wholly or in principle.

Mr President, I commend the Committee's annual report to the Senate.

Question agreed to.

Membership

The ACTING DEPUTY PRESIDENT (Senator Brandis)—The President has received letters from a party leader seeking variations to the membership of certain committees.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (4.30 pm)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

Foreign Affairs, Defence and Trade— Joint Standing Committee—

Discharged—Senator George Campbell

Appointed—Senator Crossin

Privileges—Standing Committee—

Discharged—Senator Hutchins, and Senator Evans from 11 December 2005

Appointed—Senator Evans, and Senator Ray from 11 December 2005.

Question agreed to.

TAX LAWS AMENDMENT (SUPERANNUATION CONTRIBUTIONS SPLITTING) BILL 2005

THERAPEUTIC GOODS AMENDMENT BILL 2005

First Reading

Bills received from the House of Representatives.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (4.31 pm)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the *Notice Paper*. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for

Agriculture, Fisheries and Forestry) (4.32 pm)—I table a revised explanatory memorandum relating to the Therapeutic Goods Amendment Bill 2005 and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

TAX LAWS AMENDMENT
(SUPERANNUATION CONTRIBUTIONS
SPLITTING) BILL 2005

The bill makes consequential amendments to the Income Tax Assessment Act 1936 to provide for the tax consequences of the Government's election commitment to allow members to split both their personal and employer superannuation contributions with their spouse. The exact details of how the splitting measure will operate will be specified under regulations.

Contribution splitting is a key element of the Government's superannuation reforms. It will assist families to maximise the benefits available in superannuation and provide an avenue for spouses to share their superannuation benefits. This is important for families with only one working spouse in the home or where one spouse receives a low income.

The splitting of superannuation contributions will benefit many families. It will particularly assist low income or non-working spouses to have superannuation assets under their own control and to have their own income in retirement. This measure is expected to benefit women in particular.

It will provide single income couples with access to two eligible termination payments low-rate thresholds and two reasonable benefit limits in a similar way to dual income families.

For taxation purposes the contributions which are split and paid to another fund or transferred to an account in the existing fund for a spouse will be considered an eligible termination payment roll-over.

THERAPEUTIC GOODS AMENDMENT BILL
2005

This bill makes a number of amendments to the Therapeutic Goods Act 1989 (the Act) to better secure compliance with Australia's high standards for therapeutic goods.

These amendments follow on amendments to the Act made in May 2003 in the wake of a succession of serious safety and quality breaches by a major Australian manufacturer of therapeutic goods (Pan Pharmaceuticals Limited) which necessitated unprecedented regulatory action to protect the Australian public from medicines manufactured in a way that posed a threat to public health and safety. Since that time evidence from further monitoring and auditing by Australia's therapeutic goods regulator, the Therapeutic Goods Administration (TGA), has shown that further amendments to the Act are required to more effectively address continuing failure by other manufacturers to adequately comply with regulatory requirements.

The main purpose of the amendments is to provide new alternative enforcement options to enable TGA to deal more effectively and efficiently with suppliers and manufacturers who may place public health and safety at risk by failing to fully comply with regulatory requirements including product and manufacturing standards. The amendments represent the Government's determination to respond to deficiencies arising from the limited range of enforcement measures presently available to the TGA and are considered necessary to enable the TGA to adequately protect public health and safety. Existing options for dealing with breaches of regulatory requirements are restricted to either criminal prosecution or administrative sanctions such as withdrawing the sponsor's or manufacturer's right to continue marketing or manufacturing therapeutic goods. Resort to either of these options may not, in some circumstances, be appropriate or achieve the optimal regulatory outcome, given the time and resources taken to prosecute offenders and the possible need to maintain supply of products to the public because of their essential nature or the lack of available substitute products.

These new provisions are designed to overcome these difficulties and ensure that the TGA can

take timely, appropriate and effective action to discourage sponsors and manufacturers from not fully complying with regulatory requirements, particularly when this is driven or influenced by commercial considerations at the expense of public health and safety.

The package of new sanctions is built on existing conduct already regulated as an offence under the Act.

Several important measures are introduced in the bill.

In relation to a number of significant existing offences the bill introduces a tiered regime of criminal offences that is intended to better tailor penalties for criminal conduct so that more serious offences resulting in, or likely to cause, harm or injury will attract heavier criminal sanctions. The penalties for higher tiered offences, that require proof of an aggravating element relating to harm or injury, are significantly higher than the corresponding offences without the aggravating element to reflect the more serious consequences flowing from breaches of regulatory requirements that result in, or will pose, a serious and direct threat to public health and safety. The level of penalties for offences with an aggravating element is comparable to those contained in other Commonwealth legislation.

Under the bill penalty levels for some offences are increased to ensure consistency of penalties across the Act.

The bill allows for alternative verdicts in respect of the various tiered offences in relation the same conduct regulated under the Act. This measure allows a jury to convict a person of the lesser offence, if the jury acquits the person of an offence specifying an aggravating element but is satisfied beyond reasonable doubt of facts that prove the person is guilty of the lesser offence relating to the same conduct. This provision is necessary in view of the tiered offence regime regulating conduct that consists of the same physical elements. This approach is modeled on similar alternative verdict provisions in other Commonwealth legislation.

Under the bill a defendant may be required to provide a pre-disclosure notice of evidence, in support of a defence to an offence related to deal-

ings with unapproved goods, prior to the defendant being committed to trial or the determination or hearing by a court of summary jurisdiction. It provides the Director of Public Prosecutions with a way of adequately assessing evidence of an exception to the offence claimed by a defendant prior to committal or hearing. The pre-trial disclosure requirement is similar to that provided under the NSW Criminal Procedure Act 1986.

The bill introduces a parallel civil penalty regime for breaches of the Act. The inclusion in the Act of civil penalties, alongside criminal penalties, will allow for an alternative and quicker process for dealing with a wide range of legislative breaches. Civil penalties are expected to be more effective in deterring and preventing non-compliance with regulatory requirements by body corporates, who represent the bulk of those regulated under the Therapeutic Goods Act 1989 and Regulations. Higher penalty levels attach to civil penalties because they are designed to provide adequate incentives, especially in relation to well-resourced corporate entities, for deterring breaches of regulatory requirements under the Act. The inclusion of alternative civil penalties and criminal offences is an effective strategy that has worked well under other Commonwealth legislation.

The bill introduces infringement notices (on-the-spot fines) for strict liability offences and for conduct that is subject to the new civil penalty regime. Use of infringement notices will allow appropriate enforcement action to be taken where readily assessable elements of a breach are identified and where use of other enforcement options are not warranted. An infringement notice, which will set out the particulars of the offence, is intended to give the offender the option of either paying the penalty specified in the notice or electing to have matter dealt with by a court. If paid on time no further liability arises. If not so paid, the matter may be subject to subsequent court proceedings.

The bill introduces provisions that enable the TGA to accept enforceable undertakings by a person to either remedy breaches of regulatory requirements or to not engage in future contraventions. Enforceable undertakings are a form of administrative resolution based on voluntary un-

undertakings given by the person concerned as an alternative to litigation or regulatory action. If an undertaking is breached the TGA may seek enforcement of the undertaking by the Federal Court. The use of this measure may be more efficient and productive in particular circumstances, such as where a deficiency in a manufacturing process needs to be rectified by a manufacturer whose general manufacturing ability is not in question.

The use of enforceable undertakings in appropriate situations will ensure that public health and safety is assured while access to therapeutic goods for which the public has a continuing need is maintained. The power to accept enforceable undertakings is already given under Commonwealth legislation to other regulators such as the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission.

Enforceable undertakings cannot be unilaterally enforced by the TGA and can only be used where those regulated agree to their use.

The bill provides for certain offences to extend to conduct by an Australian citizen or Australian body corporate outside Australia, and to conduct by an Australian resident outside Australia where there is an equivalent offence in the laws of the relevant overseas jurisdiction.

The offences that will be extended extraterritorially relate to the making of false and misleading statements in a material particular in connection with an application to include therapeutic goods in the Register, the manufacture, supply, export or import of counterfeit therapeutic goods, the manufacture or supply of tampered goods and the failure to notify the Secretary or the National Manager of the Therapeutic Goods Administration about actual or potential tampering of therapeutic goods.

These particular offence provisions have been given extended extraterritorial application in order to ensure that a person who would ordinarily be subject to the laws of Australia, had the conduct occurred within Australia, will be held accountable for the same conduct undertaken whilst the person is not in Australia, on the basis that the conduct, undertaken externally, could result in a

significant impact on the health and safety of the Australian community.

The bill extends the powers by an authorized person available under monitoring warrants to secure appropriate evidence in respect of a contravention or suspected contravention of civil penalty provisions. The bill also extends the existing warrants process for searching and seizing evidence to include investigations into, and securing evidence of, breaches of civil penalty provisions. The provisions have been included to take into account the new civil penalty provisions inserted by the bill.

The bill extends the liability of a body corporate to executive officers who are directly involved in its day-to-day management, if the body corporate commits an offence or contravenes a civil penalty provision. This measure ensures that executive officers who are in a position to prevent a contravention by the body corporate will be deemed liable for the contravention if they fail to take reasonable steps to do so.

The bill extends the circumstances in which the TGA is authorised to release information it holds in relation to therapeutic goods. The bill specifically permits the public release of information relating to any regulatory decisions and actions taken under the Act and Regulations. In addition, the bill also authorises the release of information relating to a breach or an alleged breach of the Act or Regulations involving therapeutic goods to Australian and overseas regulatory agencies. This extra capacity to disseminate such information will assist in improving the TGA's ability to protect public health and safety.

The bill provides substantial measures to improve the regulation of therapeutic goods. The expanded range of enforcement mechanisms under the bill provides a more flexible approach to securing compliance with the regulatory scheme. The introduction of civil penalties means that non-compliant persons can be fined rather than prosecuted in appropriate circumstances. In a number of cases this may be TGA's preferred course of action unless the conduct has the characteristic of criminality and is likely to cause or has caused harm or injury to consumers. The level of fines applicable in a particular case will be determined by a court and will reflect its assessment of the

seriousness of the conduct in question. The payment of fines rather than conviction is likely to be preferable to many persons in view of the adverse consequences on a person following a conviction.

With the new measures the TGA will be better placed to deter a company's continuing breaches of regulatory requirements before they become so serious that administrative action has to be taken that could put the company out of business.

Deterring non-compliance by the industry as a whole is important in protecting consumers but it also creates a fairer environment for all players as law-abiding sponsors and manufacturers are not unfairly disadvantaged by their non-compliant competitors. Increased compliance also leads to greater credibility and attractiveness of marketed products.

The confidence of the community in the safety of therapeutic goods is of great importance. The observance of Australia's regulatory requirements for therapeutic goods by suppliers and manufacturers enhances the reputation of Australian industry. The provisions in the bill represent appropriate measures to protect the interests of both the community and industry.

I commend this bill to the Senate.

Debate (on motion by **Senator Colbeck**) adjourned.

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

**LAW AND JUSTICE LEGISLATION
AMENDMENT (VIDEO LINK
EVIDENCE AND OTHER MEASURES)
BILL 2005**

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendments made by the Senate to the bill.

**CONSULAR PRIVILEGES AND
IMMUNITIES AMENDMENT BILL 2005**

**ACTS INTERPRETATION
AMENDMENT (LEGISLATIVE
INSTRUMENTS) BILL 2005**

**AUSTRALIAN WORKPLACE SAFETY
STANDARDS BILL 2005**

**NATIONAL OCCUPATIONAL HEALTH
AND SAFETY COMMISSION
(REPEAL, CONSEQUENTIAL AND
TRANSITIONAL PROVISIONS) BILL
2005**

**LAW AND JUSTICE LEGISLATION
AMENDMENT (VIDEO LINK
EVIDENCE AND OTHER MEASURES)
BILL 2005**

**MIGRATION LITIGATION REFORM
BILL 2005**

**CORPORATIONS AMENDMENT BILL
(No. 1) 2005**

**HIGHER EDUCATION LEGISLATION
AMENDMENT (WORKPLACE
RELATIONS REQUIREMENTS) BILL
2005**

**NATIONAL HEALTH AMENDMENT
(IMMUNISATION PROGRAM) BILL
2005**

Assent

Messages from His Excellency the Governor-General were reported informing the Senate that he had assented to the bills.

ANTI-TERRORISM BILL (No. 2) 2005

**Report of Legal and Constitutional
Legislation Committee**

Senator PAYNE (New South Wales) (4.33 pm)—I present the report of the Legal and Constitutional Legislation Committee on the provisions of the Anti-Terrorism Bill (No. 2) 2005, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator PAYNE—I seek leave to move a motion in relation to the report.

Leave granted.

Senator PAYNE—I move:

That the Senate take note of the report.

This legislation, the Anti-Terrorism Bill (No. 2) 2005, is the latest in a suite of legislation placed before the Australian parliament since approximately mid-2002. Its derivation and background are no secret to any of us. It is based in the changes that have taken place in the international security climate since the events of September 2001. Usually when bills such as this come before the Legal and Constitutional Legislation Committee a member of the committee—notoriously, on many occasions, Senator Mason—asks the authorities that appear before us when they seek more power, as is done comprehensively in this legislation, what powers they are prepared to give up that perhaps they no longer have use for. The committee rarely receives a comprehensive answer to that, but I think it is a very important message for the Senate to have in its mind in consideration of this report.

The Senate Legal and Constitutional Legislation Committee has over several years now considered very serious measures in legislation placed before it by the government and endeavoured on all occasions to examine those responsibly, seriously and comprehensively. It has been noted that in recent times the Senate committee has been presented with a swift timetable in which this action has been required. That is so, but we believe that in presenting this report today, of in excess of 250 pages, we have examined the issues and concerns raised during the committee's inquiry in relation to the key provisions of the bill and that we have made constructive suggestions in response to many of those as well as taking into account, of course, the responses of the authorities, the law enforcement agencies and the Attorney-General's Department. In a report which I would describe as a consensus report—that is to say that the elected members of the committee are agreed on the substance of the

report, although some have made additional comments—the committee has made 52 recommendations which we believe go a long way towards enhancing the operation of the bill. The report sets out those key findings and recommendations and I would like to speak briefly to some of those.

In relation to preventative detention and control orders in schedule 4 of the legislation, the committee received a significant amount of evidence from a broad cross-section of the community, from legal practitioners, academics and government representatives in relation to the introduction and operation of those orders. There is no doubt that they are a very serious incursion into the way in which we currently expect to be able to live our lives in Australia. We are told that they are in response to very serious incursions into and threats against the way we expect to be able to live our lives in Australia. In that regard, the committee gave very careful consideration to the evidence and particularly to the very practical advice that was given to us by the Human Rights and Equal Opportunity Commission, the Commonwealth Ombudsman and the Inspector-General of Intelligence and Security.

A cursory reading of the report's recommendations will indicate that many of the recommendations are aimed procedurally at enhancing the safeguards attached to preventative detention orders and control orders, and many are based on the advice received from those three very important authorities. They include the protection of minors when in detention, certain rights of detainees in relation to making representations on their own behalf and access to lawyers. We also advocate that the Ombudsman have a very active oversight role in this process. We believe that those recommendations are balanced and that they will strengthen what are very important procedural safeguards without undermining the capacity of the police,

most importantly, to respond to identifiable terrorist threats.

I also want to speak in relation to law enforcement issues and the ASIO powers that are contained in various schedules of the bill and in chapter 6 of the report. The requests for expanded powers both from law enforcement agencies and from ASIO are considered very seriously by the committee. In our recommendations we have endeavoured to address concerns raised about the potential breadth of those powers. We have, for example, suggested the insertion of several statutory safeguards and what might be described as checks and balances on the use of the new powers that will enable an adequate protection of the civil liberties that we have come to expect in this nation without undermining, as I have said before, the powers of police and ASIO to do their job in this very difficult environment. We have suggested the tasking of the Commonwealth Ombudsman with comprehensive oversight of the use of those powers under schedule 5, the preservation of legal professional privilege and other duties of confidence and the limitation of the request for ASIO's extended powers to investigations that specifically relate to suspected terrorist activities and terrorism offences only.

The committee received some evidence in relation to the financing of terrorism and the money-laundering aspects of the bill. To address those concerns, the committee has suggested that the bill commence on a date to be proclaimed as opposed to a fixed date. It is hoped that government and the relevant interests in this area are able to come to an agreeable solution on that matter.

I want to speak also about the matter of reporting to parliament on the review and sunset provisions. It will be evident from the report that the committee takes its role and the parliamentary role in this area very seri-

ously. We suggest six-monthly reporting on the use of preventative detention and control orders. We suggest a five-year review of the legislation by a committee similar to that currently known as the Sheller committee and a five-year sunset period. All senators will know that the original bill proposed a 10-year sunset period. The committee, with the best of its diligent searching, has been unable to find an equivalent sunset period in other legislation. These powers are extraordinary in nature and we believe that they should be reviewed publicly, within a shorter time frame, before there is a decision on whether to extend them.

I want to finish on the question of schedule 7 of the bill and chapter 5 of the report, and that is the question of sedition and advocacy. Almost 300 submissions were received by the committee. The overwhelming majority of those submissions raised very serious concerns about the proposed updating of sedition offences. They came from a range of organisations and, I think it is fair to say, not just the 'usual suspects'. During his second reading speech the Attorney-General announced a review of these provisions to be conducted next year. In light of that, in light of the very serious concerns raised with the committee, in light of the state of existing laws, which include the offence of treason, the crime of incitement and the laws contained also in this bill in relation to advocacy, the committee considers that the comprehensive review indicated should take place before the sedition provisions are enacted. As a whole, we considered it was inappropriate to enact legislation which is in advance considered to be in need of review.

We understand that this is a very serious recommendation. We suggest that the Australian Law Reform Commission is an ideal body to undertake that review to inquire into the most appropriate legislative measures to address the issue of sedition and incitement

of terrorism. As you will recall, Mr Acting Deputy President Brandis, there was extensive discussion of the provisions of the bill and of the revival of the concept of the offence of sedition and where that would take us were we to have this enacted and then a review presented to us. In the event of that recommendation not being taken up, the committee has made a number of alternative suggestions, which concern sedition, to address measures provided for in the bill that were also of concern. The committee makes this recommendation very seriously and with awareness of its importance.

As I said earlier, the inquiry took place over a short period of time and the hearings were intensive, with in excess of 10 senators participating in virtually every moment of those hearings. It is an indication of the level of interest that so many submissions were received in such a short period of time. It is important that I, as chair, place on record my thanks to members of the committee and participating senators who assisted in this process and to indicate that the general consensus nature of the report indicates the very important process Senate review can provide. The consensus nature of the report indicates that we can move forward on these extremely contentious areas of legislation and these invasions, some would say, of civil liberties which match the invasions of our own way of life in the current security environment.

Senator CROSSIN (Northern Territory) (4.44 pm)—I also rise to take note of the report of the inquiry into the Anti-Terrorism Bill (No. 2) 2005. On behalf of the Labor Party members of the Senate Legal and Constitutional Legislation Committee, I want to state at the outset—before we run out of time, as is sometimes the situation when we speak to reports—our appreciation of the chair, Senator Payne, for her chairing skills during that week and her contribution to the

Senate inquiry during what most of us know was personally a very difficult time for Senator Payne. I want to publicly place on the record my thanks for her chairpersonship during that week. I also want to thank Owen Walsh, the secretary of the committee, and the A team he had with him for putting together the report in a very short time. It is a very comprehensive report and I think it is testimony to the fact that we have some fantastic committees operating in the Senate and some terrific people who are able to pull together all of the relevant information and produce a document that will be referred to and looked at for many years to come.

There was some discussion in the early days that the Senate would only get one day to look at this bill. As it turned out, we had 2½ days—unfortunately, all were in Sydney. Given this urgency and given the time constraints placed on the committee in looking at this legislation, and thanks to the work of the department and of people who contributed to the inquiry who were asked with 24-hours notice to get back to us with answers to questions on notice, all of them complied and assisted us more than was expected with delivering this report.

Tough antiterrorist laws need to be matched by strong safeguards. When we started to look at the draft of this legislation I was not convinced that there were enough safeguards to ensure that this legislation would move us to the level of protection that individuals and the community wanted and that, at the same time, we would not leave behind the civil liberties we expect to have in our justice system in this country. We need to ensure that, if we are going to restrict a system to make people safer, we do not also restrict people's rights when they are charged with crimes under this legislation.

The struggle to defeat terrorism does not require us to surrender our basic rights and

the freedoms of our democracy and the free society that we enjoy in Australia. During this committee process, I think all the members of the committee tried to find the balance between ensuring that we still have freedom in our society and having effective measures in place to ensure that people who need to be detained, need to be charged and need to be held under the bill also have rights that are protected by international conventions which we as a country have signed up to. Having also been involved in the inquiry into the administration of the Migration Act, I was somewhat concerned that we have enough checks and balances in this legislation to ensure that there is a requirement for effective safeguards so that we do not have people who may be innocent being caught up in this rigorous new regime without evidence of wrongdoing.

Did we have most of our concerns dealt with during the inquiry? I believe we did. I think that this report is testimony to the fact that Senate committees can play a very valuable role in this chamber. This piece of legislation was given to us with 2½ days for discussion. As Senator Payne said, up to 10 senators sat in Sydney and questioned witnesses, one after the other, for what were very long days. The committee sat for nine or 10 hours on two days. They were long days; they all ran together into a bit of a blur after a while. I think it shows, at the end of the day, that everybody was trying to ensure not just that we have this legislation in place but that it is fair legislation and that there are safeguards in this legislation. The fact that the Labor Party have not written a minority report or a dissenting report proves, by and large, that the concerns we had have been addressed in this report. I seriously urge the government to look very favourably on the more than 50 recommendations that do not change the intent of the legislation and do not change the basic core of the legislation

but just tidy it up. If the recommendations are actually picked up and put into amendments when the bill comes before this chamber, the legislation will be improved.

I know Senator Payne went through some of the recommendations. I want to touch on a couple. We were concerned about the retrospectivity of the bill which has certainly been addressed by clarifying how that will apply. We recommend that people who have been issued with a continued preventative detention order be legally represented and be able to obtain the published reasons for the issuing authority's decision to continue the preventative detention. We were concerned that 16- to 18-year-olds picked up under preventative detention orders may be detained with adults while in police custody. There is a recommendation to remind federal and state officials that this should not happen, that there is an international Convention on the Rights of the Child that we have signed up to and that those people need to be mindful of when dealing with children.

We recommended tightening up the requirements in relation to contacting family members of people who are detained and ensuring that the provisions of the bill are oversighted by the Commonwealth Ombudsman. The Labor Party's position was that we were looking for some external agency to have some oversight requirement here. We are happy to agree to this recommendation, as at least it means that a third party looks at the preventative detention regime, much as the Ombudsman will do in future in relation to immigration detention. Also, of course, we recommended that the Attorney-General report on the Commonwealth preventative detention orders on a six-monthly basis and that the sunset clause be reduced from 10 years to five years, which was an area of concern for many of the witnesses who had come before us and

many of the members of the public who had contacted members of the committee.

Senator Payne has commented on the recommendation of this committee that schedule 7—that is, the schedule that relates to the sedition provisions—be removed from the bill in its entirety. I would have to say that in the committee process nobody tried to defend the sedition provisions; nobody tried to get the department or the Australian Federal Police to defend the sedition provisions or justify why they needed to be in this bill at this point in time. If any justifications were given, none of us were convinced that they were strong enough reasons to leave that section in the bill.

We know that the Attorney-General is reviewing the provisions. We go a step further and suggest that the Australian Law Reform Commission conduct a public inquiry into an appropriate legislative vehicle for addressing the issue of incitement to terrorism. We are basically saying that we should leave this schedule off for a bit. Let us see what the Attorney-General has to say, let the Australian Law Reform Commission conduct a public inquiry and let us revisit this, but we do not believe that this section is needed in this legislation at this point in time in order to get this bill through this chamber before Christmas.

We had many representations from journalists, the artistic community and even people from the religious orders and the Australian communications councils saying to us: 'Just wait a bit. We're not entirely sure what these provisions mean. We are not certain they're going to achieve what you need them to achieve. This is a dead-letter law. It hasn't been used for 40 or 50 years. There has been only one case in this country. So let's put it off until the review has happened.' In conclusion, with this report and the agreement of this report, the Labor Party and the govern-

ment show that the committee process can still work well in the Senate. I commend the report to the public to read.

Senator STOTT DESPOJA (South Australia) (4.54 pm)—I begin by commending all contributions from senators on this inquiry, as has been acknowledged—in particular, though, the work of Senator Payne in dealing with a large group of senators and an intense inquiry over a short period of time. That is particularly appreciated. I wish to acknowledge the efforts of the secretariat and, on behalf of Senator Payne because she did not get a chance to, I mention Owen Walsh in particular.

While the Democrats agree with the evidence as presented in the chair's report today and support a majority of the recommendations as an opportunity to ameliorate the worst aspects of this legislation, we do not believe that the report goes far enough—hence my decision to provide, on behalf of the Australian Democrats, some additional recommendations and a dissenting report.

The Australia Democrats were responsible for the amendment that led to the three-week extension in the reporting date for the Legal and Constitutional Legislation Committee's inquiry into this legislation. As has been noted, this inquiry and the way people worked together in a fairly consensual way indicate not only the worth of the Senate committee process but also the fact that it is essential to the democratic and representative functioning of this place. Three weeks was an incredibly tight time frame, as I am sure everyone must acknowledge, and in that respect I still believe that there are some aspects of this legislation that will need to be more adequately debated than perhaps the recommendations allow during the committee stage on the bill.

The Australian Democrats believe that the bill as introduced will erode some key legal

rights and undermine some crucial civil liberties in our nation. We believe it is still a flawed piece of legislation and thus the Australian Democrats remain opposed to the bill in its current form. We believe that the bill is appropriately described as draconian—certainly the powers sought under the legislation—and arguably represents a disproportionate response to the terror threat that we are facing currently.

We do not believe that the most comprehensive case was provided for the extraordinary expansion of powers in relation to security and law enforcement. More importantly, as has been noted, we cannot pursue legislation dealing with key security issues and imperatives in our nation in isolation, without reference to and a regard for the human rights and the civil liberties that we hold so dear. I know that is one of the aims for the major parties in the chair's report, but, as acknowledged earlier, I do not believe that the chair's report has gone far enough. Having said that, there are a number of recommendations contained therein that we look forward to supporting when the government moves them in an amendment form on the floor—or so we hope.

Mr Acting Deputy President, could I clarify whether I have only five minutes left?

The ACTING DEPUTY PRESIDENT (Senator Brandis)—No, you have six minutes and 45 seconds left, but if you have an informal arrangement with other senators to enable them to use some of your time, that is a matter for you.

Senator STOTT DESPOJA—Thank you. The Australian Democrats have indicated a number of areas where we have concerns. Like all senators, we oppose the sedition provisions being pursued at this time. In fact, the Democrats oppose, as dead-letter law, not only schedule 7 in its current form

but also the sedition provisions. It is dead-letter law; it is not required.

We have concerns with the sunset provision. We do not believe that the recommendation contained in the chair's report is appropriate. We prefer 'the life of the parliament'—that is, a three-year review process. We are concerned about the treatment of children and support some of the recommendations contained in the chair's report, but I am strongly opposed to the notion that children—that is, minors—can be detained and, of course, detained alongside adults. We are concerned about people with mental health concerns being detained. We are concerned about the lack of judicial review and the current authorisation powers. We are concerned about the impact of this legislation on our privacy rights as Australians—bodily privacy, territorial privacy, and the list goes on. We are concerned that this government has not paid due regard to the recommendations or suggestions contained in the Federal Privacy Commissioner's submission to the committee.

What is more, we believe that this bill in its current form breaches international treaties and covenants such as the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights. We believe that this legislation should not be allowed to proceed without a bill of rights or charter of rights to provide Australians with some safeguard and protection for their rights. In its current form, this bill does not strike an appropriate balance between the security imperatives and the need to protect civil liberties and safeguard human rights. Without that balance being struck, this bill should not be passed.

Senator BOB BROWN (Tasmania) (5.00 pm)—The Greens have issued a dissenting report from the committee's report accepting the Anti-Terrorism Bill (No. 2) 2005 if cer-

tain changes are made. Let me say at the outset that the Labor Party has joined with the government in not listening to the witnesses before the Legal and Constitutional Legislation Committee, including the best legal minds that we could have brought before the committee in this country. The representations of the law profession in Australia, human rights organisations, community groups and even finance organisations and many other sectors of the Australian community were that this legislation should not proceed because it strikes at the heart of long-held principles which are bulwarks to our democracy. Not least is detention without charge or trial for citizens for prolonged periods of time. How can the Labor Party turn down the evidence before this committee and accept that breach? There is a potential criminalising of people who support liberation movements. Indeed, even within our own country, peaceful protest, which has been part of democracy in this nation for a century, can be branded otherwise.

Senator Kemp—Complete rubbish! You know that's rubbish!

Senator BOB BROWN—The evidence before the committee, from which the interjecting minister was absent throughout, came from far greater legal expertise than he has ever been able to muster. This is an unwarranted and savage attack on basic democratic and legal principles which protect the rights of individuals in the Australian community. One would have thought that this government would, above all, as a Liberal government, be looking to defend the rights of individuals. But there is a massive erosion of those rights.

The evidence before the committee was that this legislation should not be accepted either as it was or with the minor amendments that are involved here. Certainly the committee has recommended that the sedi-

tion components be removed from the legislation until a proper survey of public opinion and an analysis of the impact of them is done. The same should apply to the rest of this legislation. This is an extraordinary attack on and erosion of the rights of Australians in a period which is not an emergency period. It is unprecedented in the history of Australian democracy and this bill should be rejected.

Senator NETTLE (New South Wales) (5.03 pm)—The Australian Greens do not support detention without trial. The Australian Greens support the rule of law and the basis of our legal system which has been around for so many hundreds of years. Therefore, we cannot support the Anti-Terrorism Bill (No. 2) 2005 and we put forward our dissenting report. As Senator Bob Brown and others have said, the witnesses before the committee said that the government should drop or at the very least seek to justify this legislation. But they did not do that. For the 2½ days during which we were locked away from the public and the media for this inquiry, they did not justify it or prove that these powers were necessary. In fact, the witnesses who appeared before us told us that the existing powers of the police force were enough.

Of course, the bill does not just deal with terrorism powers. There are powers given to the police. The police told us in the inquiry that it would be easier for them to get documents without the need for a search warrant. That is what this legislation allows for. This legislation removes civil liberties. It removes the very freedoms and democracy that our Prime Minister and George Bush stand up and defend and that terrorists seek to remove from us. That is what this bill does. The Greens cannot be a part of supporting the removal of the civil liberties, freedom and democracy that we as a society can stand up and be proud of and have built up over so

many years. The Australian Greens oppose this bill and we are proud to have put in a dissenting report to the recommendation of both of the major parties that the bill be supported.

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! The time for the debate has expired.

Question agreed to.

**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**

**Report of Community Affairs Legislation
Committee**

Senator HUMPHRIES (Australian Capital Territory) (5.05 pm)—I present the report of the Community Affairs Legislation Committee on the provisions of the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005 and a related bill, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator HUMPHRIES—I seek leave to move a motion in relation to the report.

Leave granted.

Senator HUMPHRIES—I move:

That the Senate take note of the report.

The legislation which the Senate Community Affairs Legislation Committee has been asked to consider could fairly be described as radical. The Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005 and the Family and Community Services Legisla-

tion Amendment (Welfare to Work) Bill 2005 referred to the committee purport to effect perhaps the most profound realignment of the principles of Australian welfare in a generation. Those changes have not been without controversy. The bills operate on the principles that those who have the capacity to work should attempt to do so, that employment services should focus on lifting their clients into job readiness at the earliest opportunity and that a job is almost always better for individuals and families than income support.

Those principles also respond to what is best described as an emerging crisis as the number of Australians in certain categories of income support grows sharply while the economy simply runs out of workers in key sectors and in some regions. The number of people on the disability support pension has grown by 26 per cent in just seven years while, over the same period, 33 per cent more single parents have enrolled for income support. This should be of concern in any context, but more so at a time when the Centre of Policy Studies at Monash University projects a shortfall of up to 195,000 workers within five years.

The bills underpin a \$3.6 billion investment in the enhancement of employment services for those most disadvantaged in the current job market—the long-term and mature aged unemployed, single parents and those with disabilities—and in the extension of child care affordability to those needing it to obtain work. The extent to which that investment and the other incentives to seek work, which the bills contain, will meet the challenge of diverting hundreds of thousands from welfare into work was the kernel of commentary during the committee's deliberations. The committee majority recommends to the Senate that these bills be passed, although with amendments both to one of the bills and to the framework beneath

it by which the package will be implemented—matters that I will return to in a moment.

The committee believes that these bills have the potential to facilitate paid work for tens of thousands of Australians, and the social dividend from such a transition into active employment is too great to pass over. Even with the shortening of time that a single parent can obtain the parenting payment, Australia will still operate a relatively generous income support regime by world standards. Most witnesses to the inquiry accepted that the package contained strongly positive elements. Where they demurred was in two key aspects of the package: firstly, that many welfare recipients would be forced into the job market before they were capable of holding down work; and, secondly, that welfare recipients who remained without a job would experience a significant and sustained decline in the level of their income as they attempted to live on a Newstart allowance.

With respect to the first of these objections, many argued that serious injustices would necessarily flow from the reforms as a new regime would not be able to recognise the unsuitability of many for work or the unsuitability of the work they were offered. The fear was expressed that mothers with children with behavioural problems or with limited access to child care, people with mental illness or people experiencing domestic violence would be required to work despite their circumstances and that their personal circumstances could lead them to be breached and to lose entitlements. In response to this, the department was at pains to point out that the capacity to identify these special circumstances and to exempt those with a genuine reason for nonparticipation would be preserved in either the legislation or the guidelines and that it is not the government's intention to force square pegs into round holes.

The committee noted the concerns expressed by the welfare sector in this regard but could find no provision in either of the bills which would automatically lead to any of the dire outcomes predicted—outcomes which the department is adamant will not be allowed to occur. I concede that any legislation and any scheme underneath it is only as good as the way it is administered. No-one can guarantee that mistakes will not be made in the way this scheme is implemented and that on isolated occasions people will not suffer the kinds of inappropriate outcomes that the welfare sector fears but that is not a reason to not pass these bills.

The bills will afford access to tens of thousands of Australians to the best form of assistance we can offer—namely, a real job. The inherent difficulties in redesigning our welfare system and the possibility of some unintended outcomes in the process should not be allowed to deflect us from securing those vital gains for so many Australians. While acknowledging these gains, many in the welfare community argued that greater investment needed to be made to smooth the way of welfare recipients into employment than was on offer in this package. The committee noted this wish but members have asked themselves two questions. If \$3.6 billion is not enough, how much is? With unemployment at a 30-year low and manpower shortages looming, if now is not the right time then when is?

The committee suggested four areas where the government should consider changes to the package as announced. First of all, large families should be granted an automatic exemption from participation in job seeking. The committee notes that exemptions from the requirement to work are available under the package to families in a variety of circumstances. Families involved in, for example, distance education or who foster children receive an automatic exemp-

tion. Large families are eligible under this package for an exemption on a discretionary basis. The committee feels that the pressures on those families are considerable and that the granting of an automatic exemption is warranted. It is also recommended that the guidelines made under the legislation be subject to a greater degree of parliamentary scrutiny.

Many criticisms before the committee centred on the lack of parliamentary oversight in the making of the guidelines, where of course the meat of these reforms will largely be found. The committee believe that the advantage of placing provisions in guidelines is flexibility, and flexibility is vital in ensuring that unintended consequences are avoided. However, we acknowledge that the use of non-disallowable instruments denies a measure of parliamentary oversight which is vital in so sensitive and far-reaching a set of reforms. Accordingly, we recommend that the balance between disallowable and non-disallowable instruments to effect this package's objectives be reassessed.

We recommend that the interface between further education and welfare in this package be reconsidered by the government from time to time. The labour market is changing very rapidly. The committee believe that the balance between what education and training is appropriate and should count in lieu of job seeking and what is not is a fine judgment that must continue to be reconsidered in light of those changes in the marketplace. Again, flexibility is crucial. So rather than prescriptively say how that balance should change, if at all at present, we suggest that the government monitor and review this issue from time to time. We also recommend that the government report to parliament annually on the ways in which the legislation has impacted on the community. Accurate data on the effect of these reforms of course is vital. Hand in hand with greater parliamentary

scrutiny of the crafting of these reforms goes to the need to observe how well they have hit their mark.

A key issue before the inquiry was the question of people who will be required to move to Newstart payments, as opposed to parenting payment single or disability support pensions, where they are fresh applicants after 1 July 2006. The committee pondered this issue at some length. It is true that there are two levels of payment that are generally made in Australian society today for people in need of income support. Long-term income support is provided to people who are viewed as having no reasonable prospect of imminently moving into the work force. Lower payments are available to those who, in a sense, require funding to bide them over until they return to the work force. The committee considered that the latter level of payment was appropriate for those people who were assessed genuinely as having a capacity to work even on a part-time basis.

We in the majority believe that the best form of welfare is a job and that the present welfare system defaults too often to passive welfare rather than active participation in the job market. Even the Leader of the Opposition has acknowledged that too many people presently receive welfare payments. We are encouraged by the details of the government's proposal and by the fact that present recipients on those two income support measures will by and large be grandfathered from these changes.

I conclude by commending the members of the committee on working under arduous circumstances to produce this report. I commend particularly the committee secretariat, led by Christine McDonald, on the hard work they have put into making this report possible in just two weeks.

Senator WONG (South Australia) (5.16 pm)—The 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 demonstrated the extent to which this government is perpetrating a fraud on vulnerable Australians. This inquiry showed that the Howard government is guilty of the biggest welfare fraud in Australian history. This government has talked long and hard about welfare to work. It has a lot of rhetoric about moving people from welfare to work. But the core of its policy, which is encapsulated in this legislation before the Senate, is a reduction in the incomes of vulnerable Australians. The core of its policy is in effect to dump people onto the dole. This is why it is the biggest welfare fraud in Australian history. Despite all the rhetoric about welfare to work, what the committee confirmed was that there was no evidence that the central policy the government is putting forward—dumping people onto the dole—will in fact help people to get a job.

The minor parties and the Labor Party asked the department on a number of occasions to provide us with evidence as to why putting people on the dole would in fact help them get a job. Why was it that putting people on the dole would actually lift the participation rates? What was interesting was that the department had to take the question on notice because obviously they did not have enough evidence to show the Australian people, through the parliament, why lower payments would in fact help get people into work. Then, on the third day of the inquiry, the department came back with references to a number of reports, three of which looked at the effect of an increase in benefit levels, which clearly is not the case under the government's policy. One report actually looked at abolishing the income support system altogether. I assume that the government is not

relying on that as evidence of the benefit of the legislation which is before the Senate.

A range of other problems were demonstrated in the evidence presented to the inquiry. In the short time that I have I cannot go through all of them. One was the inconsistent treatment of Australian families. It is quite clear that different families will have different levels of support, depending on when their parent accessed the parenting payments and on their age. It is also quite clear that, despite all its rhetoric, the government has substantially failed to invest in enabling people on welfare to improve their skills. We all know that the best way for someone to get a job is if they have the skills an employer needs. One example of the government's failure on this issue is its refusal to allow parents of people with a disability who are dumped onto the dole access to the pensioner education supplement, a payment which assists people who return to training and education. The only answer the government could give on that point was: 'They're not on the pension; therefore they don't get it.'

We also have concerns—and Senator Humphries has alluded to some of these—that so much of what will be effected through this legislation will be in guidelines. Welfare organisations, academics and others presented evidence to the committee which raised serious concerns about things which were so substantive being put in guidelines which were subject to change and may well not be the subject of parliamentary scrutiny. Even some aspects of the Prime Minister's so-called child care guarantee will be only in the guidelines. In effect, the committee are being asked to recommend supporting the legislation before the Senate on the basis that we hope the guidelines will actually reflect what the government says they will.

I will briefly refer to something that the St Vincent de Paul Society said. They pointed out that 70 per cent of their home visits already, under current policy, are to people with a disability and to sole parents. Referring to people with a disability and sole parents, they said to the committee:

I think they will just find life harder than it was before. I do not think there is any doubt about that. They will come to us more often seeking help and we will do our best to help them—we and others.

Really, I think that indicates just what the core of the government's policy is. It will make life harder for people with a disability and for sole parent families in this country.

I indicate that the dissenting report was agreed to by the Labor Party, the Australian Greens and the Australian Democrats. I put on record our thanks to the other parties, the Greens and the Democrats, for their involvement in the dissenting report and their support of the position. I also thank the committee for doing a very good job in a very short time frame. I particularly thank Stephanie Holden, who assisted us in our deliberations. I also want to thank the submitters—people from the welfare sector and from the community and academics and others—who, in an extraordinarily short time frame, because of this government's determination to ram this legislation through, were able to provide us with very high-quality submissions on what is an extremely complex piece of legislation.

Senator BARTLETT (Queensland) (5.21 pm)—I would like to concur with the comments of Senator Wong in thanking the staff of the Community Affairs Legislation Committee. It does have to be said, as Senator Wong and indeed Senator Humphries, the chair, alluded to, that this was an inquiry done under very difficult circumstances and with extremely short time frames available for people who will be affected and the agen-

cies that will work with those who are affected. Those agencies are not just the welfare agencies that help people on welfare but also the job providers, whose daily business is assisting people and those who are on income support payments to get work. All of those groups had an unacceptably short amount of time to examine the detail of the legislation. It is simply not good enough to say, 'The broad thrust was announced in the budget back in May so they have had six months to look at it.' We in this place know—I would hope everybody in the press gallery and expect most people in the general community would realise it—that that is a furphy. Until you see the details you do not know what the real impacts and consequences are going to be.

The people who are directly affected by this legislation were treated with contempt by being given less than a week to assess it, to put in place their views and to provide submissions to the committee inquiry. That is simply unacceptable. Every government senator has to bear responsibility for that fact. Any individual government senator could have stopped that happening by voting with the non-government senators to allow a more realistic time frame for these measures to be considered. That is not only treating the Senate with contempt but also treating the community with contempt, particularly those people that the government keeps trying to assure us these measures are intended to help.

The other aspect that I find disappointing is the government senators' response. I would contrast their report with the one tabled just prior to it by the government senators inquiring into the terror legislation. I do not agree with everything the government senators said in that report, but at least they took it seriously enough to acknowledge the blatant, obvious and undeniable truth that there will be negative consequences. They

came out with around 50 recommended changes to the legislation. It is very disappointing to me that the government senators looking at this piece of legislation, which will more directly and quickly affect more people in a very up-front way, saw fit to recommend only one substantive amendment to the legislation. That is very disappointing. It simply flies in the face of the massive amount of evidence that was provided to the committee, even in the very short and inadequate time frame that was provided for it to look at the legislation.

The simple fact is that nobody in this chamber disagrees with the fundamental aim of getting more people into the work force. Nobody in this chamber, from any side of the political spectrum, disagrees with the simple fact that passive welfare dependency is undesirable. But one half of this chamber—or, sadly, one half plus one, it appears—is denying the fundamental fact that this legislation, on the government's own figures, will lead to well over 100,000 people having lower incomes than they otherwise would. Those people are amongst the poorest in our community. How it can possibly help any person to get a job by cutting their income is beyond me. Government senators, whether it is Senator Abetz's continual misleading and distortion of the facts in every single question time or the government senators in this inquiry, have not made one single effort to justify how it possibly helps a person to get a job by cutting their income, particularly when you see the impact on people who are trying to study to get out of welfare dependency. They will have their income not just reduced by \$20 or \$30; they will have it absolutely slashed. That is an unbelievable disgrace. To try to dodge that basic fact time after time and to keep chanting the mantra 'welfare to work' is to deny that fundamental reality. That is unacceptable. That is, again, treating those people with contempt and,

basically, as disposable in the politically and ideologically driven jihad that is being put forward by the government. I think it is extremely disappointing. It will come to pass, though, only if every individual government senator allows it to happen. Any one of them can stop it. My challenge to them is to look into their hearts over the next week, and for one of them—(*Time expired*)

Senator SIEWERT (Western Australia) (5.26 pm)—Yet again I rise to talk to a piece of legislation that is being rushed through this house that will have many intended and unintended consequences for the community of Western Australia and, once again, for our most vulnerable—people living with disabilities and people who are supporting families, many in rural and regional areas. Given the limited time that was available to analyse this complex piece of legislation, we received very good and coherent submissions that had a lot of evidence to support the statements they were making. That was contrary to the government's position, where there was a lack of evidence, as Senator Wong pointed out. There was no concrete evidence to support the notion that throwing people onto the dole and lowering their incomes magically enables them to get a job and to support their children better. Try being a single mum living in a regional area supporting two or three children and trying to find the time to increase your skills, to look for work and to look after your children. Try having children with learning and behavioural or some sort of emotional difficulties, and having to run around for them during the day—taking them to counselling, taking them to school and taking them to activities, all of which require you to be at home. And then try having your income cut. If we were to put ourselves in that person's position I think we would start seeing things a lot more clearly and sympathetically.

There was a clear convergence in the submissions and in the people presenting to the committee. Across the range of people that attended—employment support providers, crisis care organisations, advocates for the disadvantaged, church groups and community organisations—all were in agreement that it is a good idea to help people come off welfare and go into jobs. They welcomed moves to increase resources for employment assistance and child care, and there was a strong consensus that moving from social security to meaningful work was very important—that it not only helps families out of poverty but also helps to increase people's self-esteem. However, in my opinion, there was unanimous opposition from the people who were presenting from those agencies to the approach being taken by this government. They believed that reducing people's income support and using coercive measures to get people back into work was not the way to go. That does not deal with the very substantial barriers that people living with disabilities and sole parents face in getting back to work.

We also heard evidence that up to 60 per cent of people in those categories, particularly sole parents, do not have education beyond year 10 and face very real barriers to going back to work. We also heard evidence of people's concerns that, with the interaction between this legislation and the industrial relations legislation that we debated earlier in this chamber, people's working conditions and the minimum wage are going to drop. People are going to be faced with being between the devil and the deep blue sea.

There was a great deal of convergence amongst people appearing before the committee that these changes were not going to achieve the government's objective. If the government's objective is to create a class of working poor in this country, it might achieve that. But that is not the professed

objective of this government; it is to move people into employment. If we are going to be moving people into employment, we should be looking at addressing the very real barriers that people face in access to study and meaningful employment.

We also heard quite a deal of evidence about the impact that these changes will have on those living in rural and regional communities. We all know that in rural and regional communities unemployment rates are higher and it is difficult to find work and to find child care. Parents do not want to bung their children into any form of child care; it has to be accessible, appropriate, quality child care and available particularly during vacations.

We also heard evidence that a lot of decisions were going to be at the discretion of the secretary or left to Centrelink or Job Network staff. I am not casting any aspersions on those staff members, but I think it is inappropriate to leave it up to those people to make very significant decisions that affect the lives of hundreds of thousands of Australians and Australian children. When it gets down to it, that is what we are talking about; future generations of Australian children who are going to be living in further poverty. I am convinced that this is what is going to happen. With the combination of these two bills, we are forcing families into further poverty and forcing more children to live in poverty with no way out. We are creating a workplace system where it will be very hard to opt out or to take time out to try to get training. (*Time expired*)

Senator McLUCAS (Queensland) (5.31 pm)—Senator Humphries was right when he described these proposals as being radical. He said that they were the most radical changes to the welfare system in Australia in a generation. That is not quite right—it is the most radical change that the social security system in Australia has had since the Social

Security Act was implemented in 1947. The Senate Community Affairs Legislation Committee had four days of hearings in order to deal with the most radical and significant changes to social security law in this country—and that is appalling.

We were referred this legislation on the second last day of sitting of the last fortnight. We sat down together and tried to work out an advertising schedule. As you would know, Mr Acting Deputy President Marshall, nearly every committee in this place advertises the fact that they are going to do an inquiry. But we could not—we did not have enough time. It was not possible to place an advertisement in Saturday's *Australian*, and the following Wednesday was the day that we were closing for submissions. It was an appalling situation where the community were not invited to be part of the biggest changes to the social security system in Australia.

It is patently obvious that everybody wants to get into the work system, especially single parents and people with disabilities—and Labor and everyone in this place understands that. The single parents and people with a disability who presented evidence to the committee want to get into the work system—in fact anyone you meet does. This legislation does not encourage them into the system. In fact, it discourages single parents and people with disabilities getting into the employment market. This legislation simply takes people from one welfare system onto a lower payment. Repeatedly, evidence was given to us that Newstart, the lower payment, was never designed for long-term welfare recipients. It was designed as an interim measure, as a safety net between one employment situation and another. It was never designed for a part-payment situation. That is the mess that we are now in.

The government says that the welfare system in this nation is far too complex. I have

to say that the government has just about doubled the complexity that we have. Every senator in this place receives correspondence from people who have gone through Centrelink and are having difficulty working through the system. The number that senators are hearing from now will be doubled because we are going to have to work out whether a person was a single parent before or after a certain date and we are going to have to find out whether a person was on the disability support pension before budget night 2005 or if they were on the disability support pension after 1 July 2007. That is the level of complexity that will be delivered by this legislation that we are dealing with.

The government's own report talks about what has been deferred to guidelines—something that this chamber will never look at—and acknowledges that there are 10 parts to the guide and over 2,000 subsections or topics, many with links to other subsections in other parts. That is simple, isn't it? Won't that be easy for a person with a year 10 education to negotiate? It is going to be pretty hard for senators' offices to assist people through that process.

This legislation has failed the test of welfare reform. The recommendation from non-government senators is to not adopt any of it. That is the only way that we will get a fair system that actually gets people into work and says, 'We value you and the contribution that you will make and we want you to work.' (*Time expired*)

Question agreed to.

**WORKPLACE RELATIONS
AMENDMENT (WORK CHOICES)
BILL 2005**

Second Reading

Debate resumed.

Senator SIEWERT (Western Australia) (5.36 pm)—As I was saying, what incentive

is there to bargain when an employer can ignore provisions requiring genuine advice and consultation in making, varying and ending agreements? The Workplace Relations Amendment (Work Choices) Bill 2005 will not encourage employers and employees to bargain to boost workplace productivity or to help balance work and family commitments; in fact, it will undermine such bargaining.

This legislation conveys unprecedented executive powers to the Minister for Employment and Workplace Relations to make determinations, to intervene in workplace agreements and disputes and to alter the act through regulation. This level of executive power is incompatible with the proclaimed spirit of the legislation of encouraging flexible bargaining and may act as a disincentive to employers and employees entering into discussions that may be limited or overridden by the minister.

A number of items are left to the minister's discretion—in fact, there are 196 references to the regulations. The minister can amend or veto outcomes of the Fair Pay Commission. The minister can unilaterally add prohibited items which restrict the ability of parties to freely negotiate workplace conditions, reducing the flexibility of both parties to come to an agreement to increase productivity and improve the work and family balance. The minister can declare particular enterprises essential services, thereby restricting bargaining periods and the possibility of industrial action and allowing the minister to force workers back to work.

In conclusion, the Workplace Relations Amendment (Work Choices) Bill 2005 will lower minimum wages and the wages of Australian workers, undermine workplace rights and conditions, deliver flexibility to employers at the cost of employees, add unnecessary levels of complexity to the regulation of industrial relations that will disadvan-

tage smaller businesses, create additional problems for those trying to balance work and family and disadvantage those already marginalised in our society—including women, young people, Indigenous Australians, those with disabilities, the lowly paid and those in part-time or casual work. It will widen existing disparity in wages, entrench inequalities and create an underclass of working poor. It will not boost workplace productivity but will undermine it by favouring short-term, low-paid work that discourages investment in employee training.

This is badly flawed legislation with a raft of serious intended and unintended consequences that will impact on the daily lives of most Australians. This legislation is being pushed through with unnecessary haste when, in reality, there is an urgent need for more time to properly assess and evaluate its impacts. The best approach would be to abandon this bill and start again. Failing that, a number of major amendments are required to address the major flaws in the legislation and improve a range of unintended and perverse effects.

It is the considered opinion of the Australian Greens that enacting this legislation will have widespread deleterious effects on the Australian way of life and will ultimately undermine productivity and innovation and foment an undercurrent of workplace unrest. I am trying to be polite by referring to the 'unintended consequences' of this bill, such as the impacts on outworkers. 'Unintended consequences' is what we might consider the legislative equivalent of the well-known US military euphemisms 'collateral damage' or 'friendly fire'. In reality, the government is putting its foot to the floor on this legislation. It is legislating with reckless abandon and it will be no surprise if working families get crushed between the wheels of this workplace juggernaut. That is your family impact statement for you.

Senator TROETH (Victoria) (5.40 pm)—This Workplace Relations Amendment (Work Choices) Bill 2005 is the culmination of some 20 years of workplace reform. This government took office in 1996 and since then the primary focus of the reform agenda has been the establishment of a genuine safety net of minimum wages and conditions with actual employment conditions being negotiated at the workplace level through agreements between employers and employees. In that time, we have seen real wages increase by 14.9 per cent, we have seen the lowest levels of unemployment in 30 years—now running at 5.1 per cent—as well as rising productivity and national economic growth.

There are still fundamental problems, however, with the current system that we must now address with the Work Choices bill. The current framework includes the wasteful duplication of state and Commonwealth arrangements, with six state systems. To give you an idea of the cost of the smallest one, the Tasmanian system runs at something like \$2 million a year. We need a national system. There is an unnecessarily high regulatory burden with ad hoc and patchy coverage from the current Commonwealth award system. We have 130 different pieces of employment related legislation and we have over 4,000 different awards. In fact, the International Monetary Fund commented on this on 24 August 2005 and advised Australia to, in basic terms, get its act together and get on with some further reforms. That is exactly what we are doing.

The amendments in the Work Choices bill will enable the establishment of a unified national system that will cover over 85 per cent of the work force. The new system, based on the corporation's power, will now give the Commonwealth the power to directly legislate for the setting by the Australian Fair Pay Commission of minimum and

award wages and the conditions of employment of all employees of constitutional corporations through the Australian fair pay and conditions standard. We must have a cohesive framework through which we can run a uniform national system.

Secondly, there is the issue of employment growth. As I have said, we have remarkably improved the level of unemployment in this country, but the fact remains that opportunities are there for greater levels of employment and the one way to achieve this is to provide greater flexibility in the workplace relations system. We must also look to the future and our place in the world. Australia is doing well, but we must maintain the momentum and we need to make changes. The combined effect of one national system, and the ability for flexibility by both employers and employees, will give employers the confidence they need to expand their business and employ more workers. This will have a multiplying effect on the whole economy.

Another reason for these changes is to simplify agreement making. At present, agreements are often only reached after a complex, legalistic and adversarial process. This bill will replace that process with a lodgment only process which is designed to encourage the growth in agreement making and which will, in turn, increase productivity. There are some major reforms in this bill. As I have said, there will be a national system, the establishment of the Australian Fair Pay Commission, measures which will lead to enhanced compliance with the act, the enshrinement in law of minimum conditions of employment and wages—the Australian fair pay and conditions standard—which will apply to all employees.

We will improve the regulation of industrial action while protecting the right to take lawful industrial action. We will retain the

system of awards—unlike what some scaremongering has suggested—and that will be simplified to ensure that they provide minimum safety net entitlements. There will be proper transmission of business arrangements. Certain award conditions such as public holidays, rest breaks—including meal breaks—incentive based payments and bonuses, annual leave loadings, allowances, penalty rates and shift overtime loadings are protected in the agreement process so that those conditions can only be modified or removed by specific provisions in an agreement. We will preserve specific award conditions such as long service leave, superannuation, jury service and notice of termination for all current and new award reliant employees. There will be model dispute resolutions and comprehensive transitional arrangements for those entering the federal system.

There is one aspect of the legislation that I would like to comment on particularly, and that is in relation to the claim by Senator Wong in her speech this morning that workplace reform harms women and families. This simply does not stand up to scrutiny. Since the reforms of 1993 and 1996, there has been record female employment, record low female unemployment and record high female employment participation. There have been record levels of employment for Australian mothers. There have been higher wages for working women, particularly through individual bargaining and entry into Australian workplace agreements. And there has been a narrowing gap between the pay of men and women—and Australia's gender pay gap is the narrowest ever following workplace relations reforms.

In a report by the Department of Employment and Workplace Relations in 2002-03 on agreement making—and these figures could only have improved since—over 70 per cent of all AWAs at that stage contained

at least one family friendly provision or family friendly work arrangement and, of those agreements, more than half had three or more family friendly provisions. With regard to female earnings, in 2002 female average total weekly earnings were \$554. Under registered collective agreements, average total weekly earnings were \$600.40. However, under AWAs average total weekly earnings for females were \$889.20. Female employees on Australian workplace agreements earned, on average, 89 per cent of the male AWA employee hourly rate of pay—far better pay equity than the 2002 gender pay disparity of 77 per cent for the work force as a whole. AWAs applying to women are also more likely to include flexible working and family friendly provisions.

In the brief time remaining to me, I will deal with what I would call 'myths and legends'. This is basically the scaremongering, hate campaign that has been waged by the Labor Party, amongst others, regarding what this legislation will do to people. This ranges from views provided by Mr Kim Beazley in the House of Representatives *Hansard* on 2 November 2005, where he argued that the enactment of the bill would increase the divorce rate. A Victorian state Labor MP, Mr Bob Smith MLA, said in the Victorian parliament on 4 October 2005 that the bill would provoke circumstances in which women and children could be murdered on picket lines, similar to in America. The Transport Workers Union claimed, in a radio interview on 4BC Brisbane's 11 am news on Monday, 7 November 2005, that the bill would increase the road toll. The New South Wales industrial relations minister, Mr Della Bosca, who appeared before the committee in its hearings last week, claimed in evidence to the committee that the bill contained elements of fascism. He replied to a question, 'Yes, Senator. It is very close to fascism.'

This is a simplistic, cliché ridden and fearmongering response to this legislation and it simply does not recognise how the demographics of this country have changed. There is an increasing number of two-parent families that do take the work-life balance seriously and construct their working lives around conditions and hours so that they can have a stable, secure family life, and this legislation will only aid them. We also need a more skilled and better qualified work force. Evidence to our inquiry last week from the Housing Industry Association and the master builders said that we need a better training system for apprentices and that the new legislation will give us this. This is not a short-term fix. These are changes, but the changes will be over a period of years rather than months. As Chair of the Senate Employment, Workplace Relations and Education Legislation Committee, as a Victorian senator and as a citizen, I support this bill and I commend it to the Senate.

Senator GEORGE CAMPBELL (New South Wales) (5.50 pm)—I did not expect to be on my feet so quickly. I thought that the chair of the committee would have at least been able to take 20 minutes to explain the position of the government and perhaps give the press the answers that she was not able to give them at the press conference convened last week—without any notice to the opposition, of course—to report on the committee's report. I will start my comments tonight by going to the opening paragraph of the submission made to the committee by the Department of Employment and Workplace Relations. That paragraph sums up the ideological belief behind this legislation by the government. It says:

A central objective of this Bill is to encourage the further spread of workplace agreements in order to lift productivity and hence the living standards of working Australians. The Government believes that the best workplace arrangements are those

developed between employees and employers at the workplace.

That is the kernel of the government's argument for this legislation—all 1,200 pages of it. The Workplace Relations Amendment (Work Choices) Bill 2005 is 700 pages long and the explanatory memorandum is 500 pages long. At this stage, we do not even know how many pages of regulations there will need to be to give effect to the bill.

We know, however, that there will be one regulation that is at the heart of this government's agenda. You always have to be careful of this government when they produce anything in this parliament because they have become so adept at using Orwellian doublespeak to say one thing and mean another. They never give you the factual story of what they are on about. There is one regulation that we know is going to be there, and that is a regulation to give the minister the power to determine what is prohibited content. That means the minister can come in here at any time, day or night, and put in place a regulation which can retrospectively make provisions in agreements illegal. Like the power to backdate some provisions in agreements in the building industry in Victoria, that power is going to reside in the minister's office and will be constantly ready for use.

Barnaby Joyce be warned! Be warned, Barnaby, because they will be able to sit down with you and make an agreement to protect Christmas Day, Anzac Day, Easter Sunday—whatever the iconic holidays that you want protected are—but remember this: after the bill is passed, it is open to the minister to come into this chamber and prohibit those from being dealt with in agreements. Under the current legislation, that is available to him.

We also know, courtesy of the Employment Advocate, that employers are the ones

who are going to be exposed to the \$33,000 fines if they seek to register an agreement—which may cover unfair dismissal or union involvement in dispute resolution et cetera—that covers one of the issues that is determined to be prohibited content. And that list can change at any time—remember that. A lot of employers and employees out there could sit down in good faith and negotiate agreements—whether they be AWAs, collective agreements or whatever—and suddenly find that without their knowledge the rules of the game have changed and the goalposts have shifted and all of a sudden they are in a legal bind in terms of the operation of this act.

When the government says that it believes that the best workplace arrangements are those developed between employees and employers at the workplace, how can you believe it? The minister is going to give himself the power to oversight every agreement—in whatever form that agreement takes—that is entered into in this country. What the government really means is that the best form of workplace arrangement is one in which the employees and employers do what it says and carry out the government's instructions. The government is going to be constantly sitting there as the dead hand over agreement making in this country.

Let me come to the economic issues. They say that this bill is to encourage the further spread of workplace agreements in order to lift productivity. Let us look at the facts. The government have not made, and nor have they attempted to make, an economic case for the changes proposed in this legislation. They never even addressed this issue. They had some modelling done by the Centre for Policy Studies at Monash, but it has never been published; it has never been put on the table. The government never made it available to the committee—they would not even

give the committee a synopsis of what was in the modelling.

What is worse is that the modelling was done after the bill was drafted. After the bill was drafted, they said, 'We'd better go and talk to somebody and see if we can get a bit of modelling that underpins and supports this argument.' But it obviously does not; otherwise, it would be out there. It has been rumoured that there has been modelling done by Treasury, but again it must not be very good for the government's argument because otherwise it would be out there being used to support their position on this legislation. The reality is that the reason the modelling has not been presented is that they know their claims that there will be more jobs, better pay and a stronger economy are simply false. They are more Orwellian doublespeak.

Let us look at the facts on the issue of jobs. I decided to go back and do a little bit of research of my own to compare what was being said by this government about job creation to what actually happened in fact. The reality is that from July 1992 to March 1996, under a Labor government, the annual job growth figure averaged 2.34 per cent. During the term of the coalition, from 1996 to now, annual job growth has averaged 1.94 per cent. Over the period of Labor's 13 years in office, annual job growth averaged 2.23 per cent. What is more significant, perhaps, is that in the period from July 1992 to March 1996 68 per cent of the jobs created under Labor were full-time jobs, whereas under the current government 51 per cent of jobs created have been full-time jobs. Under a heavily regulated workplace relations system—as described by the coalition—jobs were created at a faster rate than they have been under the John Howard's government's dog-eat-dog IR system. And it is going to get worse. They are ABS statistics—checked with the Parliamentary Library.

Let us go to the question of wages. We have heard Senator Troeth babbling on about wages and the 14.9 per cent she claims for wages growth since 1996. That is simply wrong. Let us look at the facts. ACIRT has done some research based on ABS data which showed that wages growth across the economy from 1996 was actually 3.6 per cent. Worse, their information showed that the top 10 per cent, the top percentile of wage earners, had double-digit growth of 13.6 per cent. Over that period wages for people in the top 10 per cent of wage earners grew by 13.6 per cent. For the bottom two deciles wages grew by 1.6 per cent. There was a huge disparity between the wages growth for people at the bottom and the wages growth for people at the top. When Senator Troeth talks about the wages growth in AWAs for women, what she does not tell you is that the bulk of the women that they are counting in that survey are people who are operating in the managerial class. They are people who are operating in the top two percentiles of wage earners. They are not people at the bottom; they are people at the very top of the pile. The bulk of AWAs at the present point in time cover people in the managerial classes.

The argument is that this legislation will make a stronger economy. It is very difficult to prove or disprove that. All we can do is look at some historical facts. Let us look at New Zealand, because that is the model that this is built upon. When he was in opposition Peter Reith told me that he went and door-knocked New Zealand and that the New Zealand public were in love with the Employment Contracts Act, that it was the best thing that had ever happened to any democracy in the Western world and that they would set about introducing it here. And he did. I give Peter Reith credit: he never went back on that promise. He set about introducing it tooth and nail into this country—and, finally,

we have the New Zealand Employment Contracts Act in another form in front of this chamber.

When the Employment Contracts Act was introduced into New Zealand in 1991 it swept away awards ensuring minimum pay and conditions for thousands of workers. It created an environment supporting individual contracts over collective bargaining, outlawed strikes for multi-employer agreements, supported take it or leave it bargaining and undermined the role of unions. It is very familiar when you look at what is happening at the moment in this country.

In New Zealand at that time productivity growth actually stalled. Australia's productivity growth moved ahead of New Zealand's by some 23 per cent over that period. Real wages in New Zealand fell by four per cent. Underemployment trebled and a New Zealand Treasury budget report of 1993 said:

An increased dispersion in wages is expected over the next three years. Wages of professionals, managers, and other skilled people, especially those employed in the profitable and productive export sector, are likely to rise above the rate of inflation. On the other hand, the wages of the unskilled, especially part time and young workers (where turnover may be relatively high) will probably have no wage increases and new entrants may start on lower pay rates than existing workers.

That is exactly what happened in New Zealand and there is an abundance of evidence for it. If you look at the median incomes for those in the 15 to 25 age group, in 1986 in New Zealand they were earning \$14,700 per year. In 1996, after five years of the Employment Contracts Act, they were earning \$8,100 per year. From 1984 to 1998 the top 10 per cent of households increased income by 43 per cent and the bottom 50 per cent of households decreased income by 14 per cent. Ninety per cent of New Zealanders were worse off in 1996 than they had been in

1981. That is from a New Zealand Treasury working paper. That is not a claim that I am making. It is not a claim the unions are making. That is from a New Zealand Treasury working paper. The biggest growth in the New Zealand economy after they introduced the Employment Contracts Act was in food banks. They were holding national conferences of food banks, and in Auckland alone they grew from 16 in 1990 to 130 in 1994. Families were forced into poverty and there was a massive rise in the working poor. That was a result of moving to an employment system which is similar to and has been the foundation for this bill that we are debating in the Senate tonight.

Professor David Peetz in his evidence to the Senate inquiry summed it up very well in response to a question. He said:

Under this regime there is the capacity for the employer to unilaterally reduce pay and conditions once an agreement has been terminated. So there is quite a bit of scope there to reduce the pay and conditions of employees and the labour costs. This means that, if you have reduced labour costs, there is less of an incentive on employers to invest in labour saving technology, to invest in the deepening of capital. In many ways that is what we saw in New Zealand. Labour productivity growth fell off because employers no longer had the incentive to invest. It is not just a matter of investing in labour saving technology; there is also the question of investing in training and in the skills development of the employee. So you can see it degrading not only the physical capital but potentially the human capital.

This is already happening here, as you can see when you look at productivity figures. Productivity growth in this country was at its highest when we had collective bargaining as the basis of our industrial relations system. Under the traditional awards system between 1964 and 1982 productivity grew at 2.6 per cent per annum. Under the accord period from 1983 to 1993 it grew 0.8 per cent per annum. Under the collective bargaining sys-

tem, which was there from 1993 to 1998, it grew at 3.2 per cent and under the current system since 1999 it has grown at 2.3 per cent. More importantly, multifactor productivity under the award system was 1.3 per cent, under the accord was 0.65 per cent, under collective bargaining was two per cent and under the current system has fallen to one per cent. Under this bill it will get worse.

The reality is that the government have not presented any evidence to justify these changes, because there is no evidence to produce. They do not have, they cannot develop and they cannot show an economic case for the legislation they have introduced into this parliament. The reality is that productivity is likely to decline rather than grow under this new system. That was substantiated by submissions made by 151 experts in labour law and labour relations from universities all around the country—professors, associate professors, lecturers and so forth. They said that there is a multitude of legal problems and flaws in economic reasoning with the proposals, potential social problems will be created by the legislation and the government really have nothing to stand on.

The reality is that this legislation is not about good public policy; this legislation is about ideology. This is legislation to introduce the ideology that has driven this Prime Minister for a very long time. For some 30-odd years he has been flogging these ideas. Bad law is bad law no matter who makes it. Bad laws are eventually broken because people will resist them. That is inevitably the fate of this legislation. The government will not listen to criticism; they will not listen to reason and argument in respect of some of the elements of this bill. They have a completely biased approach that was demonstrated clearly in the way they developed these proposals.

They made an announcement in May. The Prime Minister released a booklet on Work Choices. Employer organisations, the employers' unions, got a briefing from the government about what was in the Work Choices legislation, but nobody else did. The workers' unions did not get the briefing, the community groups did not get the briefing, and other stakeholders who were likely to be affected did not get the briefing in respect of that matter. What we did get in the Senate inquiry was that employer organisations came along and said that under this legislation they believed wages would go down. That was the belief of employer organisations that appeared before the committee. *(Time expired)*

Senator JOHNSTON (Western Australia) (6.10 pm)—I can say, in the very short time that is available to me, that there is one constant in this debate—one rock solid fact and that is that when it comes to self-interest and self-preservation members on the other side of this chamber will call white black and day night. They will talk under wet cement. They will mislead the Australian people. Let us look at the facts. Let us look at what happened in 1996. That is when the first outbreak of hysteria from the opposition hit the place. In 1996 the then Leader of the Opposition, and I think he is again, Mr Beazley said:

The Workplace Relations and Other Legislation Amendment Bill strikes at the heart of the desire by all Australians for a fair as well as a productive society. If we pass this bill into law, we will return the workplace to the battleground it used to be ...

... ..

... the government is attacking the very basis of people's living standards ... Attack wages, and you attack families.

That was in 1996. Then we come to the present day and here he is again—it has been a

roundabout but again he is the Leader of the Opposition and he said:

The Government's objective with Industrial Relations is not reform but suppression of wages. That is what they want to do. That is how they've performed when they've handled minimum wage issues in the past. They don't want a package that is about improving the economy they want a package which is about oppressing wages.

Back in 1996 the current opposition spokesman on industrial relations had a go. He said:

The Howard model is quite simple. It is all about lower wages; it is about worse conditions; it is about a massive rise in industrial disputation; it is about the abolition of safety nets; and it is about pushing down or abolishing minimum standards. As a worker, you may have lots of doubts about the things you might lose, but you can be absolutely sure of one thing: John Howard will reduce your living standards.

I pause to say that the opposite is exactly correct. That was the current shadow spokesperson, Mr Smith. He said that in 1996. He goes for a rerun this time around. At a doorstep on 23 May he said:

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

If you ever wanted to see a group of self-interested and self-preservation motivated people looking after their powerful friends who have given them all their jobs, look at the Australian Labor Party in this place. Let us look at the facts. Between 1996 and the present day real wages have increased by 14.9 per cent.

Senator George Campbell—It's a lie.

Senator JOHNSTON—Of course the opposition will call it a lie. Where else can they go? It has to be a lie because they have not got a feather to fly with if it is the truth—and it is the truth. Let us talk about jobs.

Since March 1996 over 1.7 million jobs have been created—900,000 full time and 800,000 part time. Between March 1989 and March 1996, guess how many new jobs were created by the Labor Party? It was 107,000. It is an absolute disgrace in this place. And they proudly had one million people sitting at home taking the dole.

Senator George Campbell interjecting—

The ACTING DEPUTY PRESIDENT (Senator Brandis)—Order! Senator George Campbell, persistent interjection is disorderly.

Senator JOHNSTON—Of course, the current Leader of the Opposition wants to talk about the proud Labor record. On 1 April he said:

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

They sacked the workers of this country. They ripped them off—the accord denied them any real wage growth. And John Howard has given them 14.9 per cent in real wages since 1996. These are the facts that these people cannot abide. There is only one institution in this whole country that is more irrelevant to current workplace reform than the ACTU and affiliated unions, and that organisation is the ALP. You cannot find a more irrelevant organisation.

Under the Workplace Relations Act, industrial disputes have consistently remained at the lowest levels of strikes since records were first kept in 1913. That is the 1996 act. In 2004, the level of industrial disputes was 45.5 working days lost per 1,000 employees. The yearly average of disputes in the 13 years from 1983 to 1995 was 192 working days per 1,000 employees. That is a factor of four, five or six—unbelievable stuff, and yet we hear the opposition, standing in this

place, saying the sky is going to fall. There is only one organisation more irrelevant and more vestigial to this argument than the vested interests of the ACTU and that is their brothers and sisters in this place: the ALP. They are irrelevant and looking after their mates who are on a very cosy little number.

The opposition are in utter denial about this legislation and are pronouncing doom and gloom. Let us have a look at some of the things that have been said. Mr Della Bosca came before the Senate Employment, Workplace Relations and Education Legislation Committee and alleged this legislation was a piece of fascism. What an absolute, outright insult to all of the victims of fascism in Germany, Italy and Spain, the fallen in World War II and the fighting men and women of this country. It is a disgrace to compare to fascism this legislation and the proud record in the workplace of the Howard government. How low can they go? They are desperate and dishonest. To support my contention, I bring to your attention, Mr Acting Deputy President, the handiwork of one Fran Tierney. On the *World Today* on Friday, 27 May, she was being interviewed by Liz Foschia. Liz Foschia opens the discussion with Fran Tierney by saying:

Fran Tierney is a community worker in the not-for-profit sector and relies on the ACTU's annual wage case for a pay rise.

Then Fran Tierney says:

We have no other way of getting increases. So with that, with those minimum clauses gone, we're gone. And we didn't get an award 'til the early '90s, so it's not long that the social and community services sector people have had an award. People with degrees were being paid \$5 and \$6 an hour and probably that's what it'll go back to.

Then the journalist says:

What are you currently paid an hour?

Ms Tierney says:

About \$16 an hour, yeah, so we'll lose that.

The journalist continues:

Ms Tierney says the changes will make it even more difficult to attract people to work in the sector.

Fran Tierney's last quote is:

It's hard enough to get workers now. It's going to be impossible.

There you have it. Guess who is spreading this wave of fear and hysteria about being on \$5 or \$6 an hour? This is Fran Tierney, who is actually the New South Wales Vice-President of the Australian Services Union. She is actually president of the community and social services sector. She also failed to disclose that she is a councillor for the Lane Cove Council in New South Wales, for which she receives a \$1,000 salary per month as a Labor Party councillor, as I understand it. She also failed to disclose one other important aspect—that is, that she was an ALP candidate for the seat of North Sydney. Here is a person telling everybody that the sky is going to fall and we will all be on \$5 or \$6. I ask the question: is anybody in New South Wales—and I asked this of the Australian Services Union, which came before the committee—receiving \$5 or \$6 an hour? The answer was, of course, that nobody receives that; it is below the award. But, no, it would not stop Ms Tierney.

This was curious: Michael Wright, the Minister of Industrial Relations in South Australia, came before the committee and alleged that this legislation will cut the guts out of the safety net but, when asked, he did not even have a clue which provisions in the act actually did what he alleged. He clearly had not read the legislation. What is more worrying is that he did not appear to understand that the three principal industrial drivers in his state and the three biggest employers—and, let us face it, his state is only surpassed by Tasmania in terms of economic

dimension—General Motors, Mitsubishi and the Australian Submarine Corporation, are all employed under the Commonwealth system. Minister Wright appeared not to know this. He appeared not to understand that AWAs and the Commonwealth industrial relations system govern three of the largest industrial employers in his state.

We then have the hysteria of Greg Combet, who alleges that this legislation will increase the number of workplace fatalities. Just how desperate are they and how low will these people go to protect their cosy positions in these very well-funded unions? Bob Carr is another classic example of those spreading hysteria. Bob Carr, before he retired, wrote to his nurses in July this year suggesting to them that they would lose terms and conditions and that they would be adversely affected by this legislation. The simple fact is that all nurses in New South Wales who are in the state system are employed by the state—they are not even part of the Commonwealth system—but that did not stop Bob Carr from sending out a letter that worried them, upset them and threatened them with losing their terms and conditions.

This is just disgraceful stuff—hysterical and quite unfair. But out of all of that, guess what? In 1996 there was massive workplace reform—very successful—with massive jobs growth and massive real wages growth, and we have seen a huge amount of union backlash against those changes and these. And what has happened? The most telling and important fact that spells the demise of the union movement in this country, or highlights how they do not earn the fees that they receive, is that their membership through all of this has continued to decline at a steady and very obvious rate.

The reality—if I can go on in the brief time that I have—is to simply look at a real leader and a real party that has some concept

of what good economic management is all about. I quote Prime Minister Tony Blair at the British Trade Union Congress of 1997:

You should remember in everything you do that fairness at work starts with the chance of a job in the first place, because if we as a Government and you as the trades union movement do not make Britain a country of successful businesses, a country where people want to set up and expand and a country that has the edge over our competitors, then we are betraying those we represent.

... ..

We are not going to go back to the days of industrial warfare, strikes without ballots, mass and flying pickets and secondary action. You do not want it, and I will not let it happen. I will watch very carefully to see how the culture of modern trades unionism develops. We will keep the flexibility of the present labour market, and it may make some shiver but, in the end, it is warmer in the real world.

When will this vested interest of an opposition, sitting opposite us here, come into this real world?

Senator MARSHALL (Victoria) (6.24 pm)—I am sure that Senator Johnston made that contribution simply to distract me from the comments I wanted to make about the Workplace Relations Amendment (Work Choices) Bill 2005. It was a rather infantile contribution to this debate. I note that he did not at all go to the substance of the content of the 600-odd pages of the bill. He simply wanted to go down the low road as usual, attacking individuals, quoting people out of context and simply repeating some of the rhetoric that this government has been making about the Work Choices legislation since it first flagged its policy position.

Senator Murray dealt with the issues about the 1996 legislation, the way it was amended and how, in his words, I think, it ripped the ideology out of that bill. So I will not repeat all that for Senator Johnston's benefit, but if he actually listened to the contribution of

some senators who have an involvement in industrial relations he may be better informed and it may assist him in making a better and more informed contribution to this very substantial bill before us today.

My comments today, which may not indicate the full extent of my outrage at the policy thrust of the Work Choices legislation, will largely be about the threats to principles which have helped sustain the social, political and economic fabric of the country for more than a century. That has been my particular focus as a senator for Victoria over the past seven or eight months. In light of what I have learnt over those months on a number of Senate inquiries and, indeed, on an inquiry we did last year on proposed regulation of the building and construction industry, I want to spend much of my time today looking critically at the premises underlying the government's Work Choices policy and its legislation.

The point at issue is always: can the challenges ahead, in coping with the pressures of the global economy, justify the tearing up of arrangements which have protected the rights of employees for 100 years? The answer is that they do not. The principal responsibility of government is the wellbeing of all citizens. Of course, it is true that prosperity and security are essential preconditions for this, but the most desirable outcome of good policy is most appropriately measured by the extent of the wellbeing of those who live in very ordinary circumstances. It is to be measured by the way our laws ensure the protection of the interests of those most in need—and most people in this place would never be in need of such protections, and perhaps the majority of those opposite rarely encounter people who do.

There are three issues I want to address in particular: the economic debate over industry productivity, the claims about deregulation

and the anti-union campaign. First, the big economic issue. It has been claimed that productivity is declining and that this is the result of labour input inefficiencies. The argument is complex, but it is worth noting that no economists have supported the government on this issue, apart from those employed to write the OECD reports and who obtain their research assistance and direction from the Treasury. Is it any wonder that of course they support the government's position? But 151 leading academics in this field told the committee of inquiry into this legislation in a written submission that the comments from authorities on which the government relied are not based on empirical research. Very little of what the government argues for can be backed by research. For instance, Professor Mark Wooden—hardly someone who can be described as traditionally sympathetic to the labour movement—has told us:

... the existence or non-existence of unlawful dismissal legislation has got very little to do with the growth of employment and that it is dictated by economic factors.

The government has run its campaigns on the premise that if something is said often enough people will simply come to believe it.

There are some things that are not mentioned in submissions made by employer organisations and one of them relates to expectations of profits. In large companies there is a continuing concern about shareholder dividend and it is this which influences arguments about labour productivity. There are other elements bearing on productivity, such as the availability of capital and the quality of management. If commodity prices fall, we can expect to hear much about declining labour productivity in the mining sector, although they seem very happy about it now. I simply make the point that labour costs are only one factor in productivity and

may not be the reason why companies are unprofitable.

**Sitting suspended from 6.30 pm to
7.30 pm**

Senator MARSHALL—On closer analysis of the government's arguments, we believe that for most businesses the issue is profitability rather than productivity. The way to increase profits is by reducing wages. This will result, if unchecked, in an underclass of working poor that is a characteristic of workers in the service industries in the United States. The sheer size of the American work force and the wealth of its middle and higher income groups protect the economy as a whole from the adverse consequences of having a low-wage labour sector.

We are not so well placed to afford to pay our lowest paid workers less than they now receive in real terms and there are social welfare implications for us which Americans do not concern themselves with. No-one in government will talk openly about this problem or discuss the implications it has for the economy, such as purchasing power being reduced. This is one of the many debates that have not occurred in relation to the Work Choices legislation.

We have a fair idea of what some of the consequences might be by considering the experience of New Zealand, which deliberately went down the path of bringing collective bargaining to an end through the Employment Contracts Act 1991. The result was a downturn in the economy and an accelerated rate of emigration. Since the policy was reversed in 2000 a recovery has been under way.

There is fundamental dishonesty behind the failure of the government to debate the economic arguments. The government are unable to admit that they believe that wages are too high, especially in the small business sector. It is for this reason that they foster

AWAs and want the unions out of the negotiation processes. Yet the rhetoric is always that wages may well increase and that, for reasons that are never stated, increased wages are likely to come as a consequence of employees accepting an AWA because the stats demonstrate that AWAs increase wages. If employers are supporting the Work Choices bill because it will enable them to pay less for labour and young or naive employees will support AWAs because they have been told they will receive more pay, we are in for some trouble or at least some serious dissatisfaction in some form.

But how do we know that the intention of the Work Choices legislation is to drive down real wages? It is because employers have in fact told us so. The committee had COSBOA, which is an association of small businesses, clearly tell it that their object when they use the Work Choices legislation will in fact be to flatten wages and eliminate penalty rates. They seek to have work force flexibility 24/7, with no penalty rates across the board. The restaurant and catering association went further. They actually claimed that wages were already too high in their industry and they also sought to eliminate penalty rates. It is not a very long step to take to assume that, if they believe wages are too high and they seek the elimination of penalty rates and more flexibility 24/7, they intend to drive wages down.

We have had Minister Macfarlane already indicate previously that the purpose of the Work Choices legislation is to make our wages competitive with those of New Zealand, which on average are 25 per cent less than they are in Australia. In summary, there seems to be little evidence of the government's Work Choices policy being informed by either economic theory and practice or appropriate foreign models of success. The government's workplace relations policy is more a case of adopting hope over experi-

ence and faith over reasoning. This will be evident in what else I have to say.

The second area I indicated that I want to talk about is deregulation. We have a government that emphasises its pursuit of deregulation. As things are never what they are claimed to be in this field of policy, the consequence is that we are becoming increasingly regulated. Simplification of the Workplace Relations Act has required an amendment bill 700 pages long. It is full of stipulations about how details must be administered, and the result is that legal costs associated with interpretation of the laws and their enforcement are likely to rise considerably. We know this because the lawyers, in contrived sorrow, have told us so. This bill is worth millions and more to industrial lawyers.

The government is highly selective in what it wants deregulated, just as it puts particular connotations on words like 'flexibility' and 'choice'. Flexibility in employment arrangements means that employers can force employees to sign AWAs which strip them of their overtime and other bonuses in return for working flexible 38-hour weeks at times required by the employer rather than at times negotiated. 'Flexible' may not be the word which best describes such an arrangement from the viewpoint of the employee. A 'choice' may not be first choice for an employee but simply a direction from an employer to work at odd times of the day. The price of choice and flexibility must be paid by those on the shop floor. The real benefits of choice and flexibility go to employers. This is what the altered balance of power, based on individual agreements, means in practice.

I will refer to two matters which are relevant to the issue of deregulation—and where better to start than with AWAs? The instrument chosen by the government which best

represents deregulation and flexibility is the AWA. The conditions surrounding the AWA are to be more severe on employees as a result of the abolition of the no disadvantage test. The reduction in the number of allowable matters for negotiation is one more compounding problem, for we know that, even under the 1996 act, there were AWAs registered which did not meet the no disadvantage test. Under the new amendments, the Office of the Employment Advocate will not even have to certify them as meeting the requirements of the act. A statutory declaration from an employer will simply be sufficient. This is ludicrous, especially as the only form of redress is common law action by the employee.

We had some AWA brokers before the committee that was inquiring into this legislation. They are people with an eye out for opportunities to help small businesses without personnel management skills to design and draft AWAs for them. This is an unregulated type of business and it raises all kinds of opportunities for dishonest and unscrupulous collusion between employers and brokers. During the workplace agreements inquiry in September, the committee heard evidence that some employers and some legal advocates were prepared, even in an open environment such as the Industrial Relations Commission, to construct processes and outcomes for AWAs which were quite misleading just so they could get an agreement certified. If this happens in an environment where the commission's documentation is on the public record, what will happen when these same sorts of legal advisers are dealing with the Office of the Employment Advocate, where everything they do is in secret, where there is no longer a no disadvantage clause and where only a simple statutory declaration is required.

AWAs were bad enough under the Workplace Relations Act before Work Choices.

They will be even worse following the passage of this legislation. Their problem is not so much the instruments themselves, because we have no difficulties with common-law contracts, but the processes involved in making and approving AWAs. As one witness told our workplace agreements inquiry, the current system does the opposite of what it says it will do—it is not fair, it is not free, it is not effective bargaining, there is no employee choice and everything is done in secret. And that was before Work Choices. Bear in mind that in reality most AWAs are offered on a take it or leave it basis, regardless of the cosmetic safeguards that have been written into the legislation. Young workers are especially vulnerable in these circumstances.

It is worth noting that there is not a single workplace flexibility that could not be negotiated under the current act. All it requires is genuine agreement making between the parties and that it meets a no disadvantage test against the award. If people want to average their hours over a 12-month period, they are free to do so, but the no disadvantage test ensures that penalty rates and shift allowances that may have been applied through that period have to be compensated for and included in those agreements. If people are required to work public holidays, those public holiday penalties need to be included in the global no disadvantage test. That is simply disappearing. So much for the government's guarantee about public holidays.

During the inquiry into this bill, it became quite clear—and the Department of Employment and Workplace Relations admitted this—that if you are on the fair pay minimum, which is all that this act provides for, and if you are directed to work on a public holiday, you are required to do so. You do not have the right to take that public holiday. If you are directed to work on that public holiday and do not turn up, you simply will

not get paid for it. If you are directed to work on it under the fair pay minimum, you will be paid a single rate of pay. You will not be paid penalty rates for that public holiday. All of this is on the public record, and the department has admitted as much. What is worse, if you fail to turn up on the public holiday because you want to take it, dismissal can effectively be the result, because dismissal for not turning up for work is not an unlawful matter under this legislation.

Let us again look at the spread of hours over a 38-hour week. You have the ability under this Work Choices legislation to average your 38-hour week over a 12-month period. We have already seen some examples where, under the existing legislation, agreements have been entered into for those sorts of arrangements to take place against the no disadvantage test so people were compensated for those arrangements. But we have already had examples given to us that, where people owed the company money—that is, they had worked fewer than the average of 38 hours a week—or had worked more than the average of 38 hours a week, it was at the sole discretion of the employer to determine when those hours would be made up, used or worked in advantage. In the Bunnings case in particular we saw that when workers had gone over their average of 38 hours a week they were given blocks of one hour at different times of the day as time off. They were not given it in usable time such as days off; they were simply given hours off here and there and effectively had a split shift. So, if there was a down period in the middle of the day, people were simply told that they were off pay for that period.

One of the other so-called protections under this act is duress. The reality is that duress is clearly not considered to be a condition of an employment offer for insisting on an AWA. Therefore, if an employer says, 'My employment conditions will be an AWA

or nothing,' that is not considered duress by this act. There has been a lot of debate about what constitutes duress for existing employees. The department admitted again during our inquiry that that particular provision is ambiguous at best. But, even if it is not ambiguous, the practical reality in the workplace is that when unfair dismissal protection is removed you can simply be sacked for any reason that is not unlawful. Unlawful reasons are a very narrow description of discriminatory type reasons.

In the committee Senator Barnett challenged Professor Peetz about a radio interview he conducted, in which he said that employers would be able to sack someone for simply chewing gum. Professor Peetz explained that he did not say that employers would sack people for chewing gum, but it was clearly possible under the legislation. Again we had some debate about that, and Senator Barnett asked Professor Peetz to withdraw it because it was wrong. Professor Peetz said that it was not wrong, and clearly that was the case. Senator Barnett indicated that he was wrong, and employees under those circumstances would have recourse to the Australian Industrial Relations Commission. It just so happens that on Friday we asked the department, DEWR—

Senator Abetz interjecting—

Senator MARSHALL—your department, Minister Abetz—whether that was the case. They confirmed that, absolutely, you can be sacked for chewing gum, that chewing gum would not be a discriminatory reason. They then went on to say that, if you wanted to use that example, you technically could be sacked for earning your employer too much money. That is my point exactly: there is no reason, unless it is in the narrow field of discrimination, why you cannot be sacked.

Senator Abetz—Why would they do it?

Senator MARSHALL—That is a very good question. If employers want to apply duress to an employee, they can do that when they have this sort of power because there is no recourse to the Australian Industrial Relations Commission. It staggered me that during the inquiry Senator Barnett was under this complete misapprehension and had a quite astounding lack of knowledge about the effects of this bill. So there is no real, practical protection from duress under the Work Choices legislation—none whatsoever. When you have an environment where employers have that sort of bargaining power and that sort of ability to determine the outcome, there is no such thing as practical protection from duress under this bill. (*Time expired*)

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (7.45 pm)—It is a wonder to me: listening to the Labor side you would think that every employer in Australia was out to unscrupulously attack every employee.

Senator Marshall—Not every one.

Senator BOSWELL—Senator Marshall, I am one of the few people here who have employed people. You go to the nth degree to keep your work force happy. Not only is that my experience but it is the experience of just about everyone who employs people. It is not your purpose to go and sack people. You do not say: ‘I’ve had a rotten day today. I think I’ll go and throw a few people out of their jobs to make my day happy.’ You go to the nth degree to try to keep your work force intact and to keep a good relationship with them. But I will come to that later. I want to make a full contribution on the Workplace Relations Amendment (Work Choices) Bill 2005 because I think this is very important legislation for Australia.

Australian individuals and families today live in one of the world’s strongest and most

resilient economies. Through sound economic management the National-Liberal coalition government have significantly increased our nation’s productivity and lowered interest rates to record levels. There can be no argument about that, Senator Marshall. Australians now enjoy higher wages. They find it much easier to find a job in a vibrant job market and have greater flexibility in their employment. At the same time, real wages have risen 15 per cent. Prosperity and security have been achieved in an unstable global economy characterised by major global economic downturns such as the Asian economic crisis and the September 11 terrorist attacks on the US.

We have come a long way since we took government in 1996, but we cannot stop now. There is more to be done. There is always more to be done. A modern workplace is an essential component to increasing productivity and further increasing prosperity for individuals and families. The Work Choices legislation before the Senate today forms the next step in the coalition’s plan for a more prosperous future for all Australians. It strikes the right balance between more flexible and productive workplaces and protecting basic rights and conditions.

The system we are now under was largely created at the end of the 19th century. Our workplace relations system is badly in need of an overhaul. The government reform challenges the entrenched mindset of unionists who have failed to change with the times. Our awards system is based on the Harvester case from about 1907. As I said, I actually employed people. I had storemen, packers, clerks and reps. You would go to any degree to keep your staff happy, including paying for their children’s weddings. You would take it out of their pay.

Senator Hurley—Take it out of their pay! That’s good of you.

Senator BOSWELL—Of course you would. You would pay a couple of grand—in those days that was what a wedding cost—and they would pay it off. You would finance their weddings or you would finance a car. You did those things because you wanted them to work for you, not disappear and work for someone else. It is wrong to categorise all those on this side of the chamber as being intrinsically opposed to the interests of Australian workers. As the federal election result showed, it was the blue-collar workers who put us on the treasury bench and the Labor Party in opposition.

When I started in business in the early sixties you sat on your own market. There were people in Sydney and that was all they looked after. People in Melbourne looked after that market. All markets were almost state based. Slowly they changed into national markets. That was over a period of 10 to 15 years. Now we are in an international market. The world is everyone's oyster and we are faced with international markets. The level of competition demands a new response of everyone and everything in the industry food chain, from telecommunications and access to the latest technology to individual workplace agreements. We cannot stop the world and say we want to get off because we liked things the way they were in 1907. If we do, we will be left behind. Ultimately it will be the workers and their families who will be hurt. To prove my point on that: in France and Germany, where there are highly regulated labour markets, they also have the highest unemployment rates. Their economic powerhouses are faltering because they are not open enough. Another EU country, the UK, meanwhile, with its more open labour market, has nearly full employment and higher wages to offer its workers.

We have 130 pieces of legislation in this area, 4,000 different awards and six different workplace systems. How can you run a com-

petitive industry in Australia if every employer has to take that into consideration? There definitely has to be a move towards one simpler, fairer national system. We will get left behind if we do not move that way. Everyone knows that. If you on the opposition benches are honest with yourselves you know it too.

I will give a recent example. Mr Acting Deputy President Barnett, you will remember it because it was in your state. Remember how the potato industry was doing it tough. What happened? The industry went out and campaigned, but eventually New Zealand took the market from Australia. How did they manage to do that? Through having a more efficient labour system that contributes to an overall greater flexibility and competitiveness. Our farmers need this legislation. Our small business people need this legislation. Australia's small businesses provide one in three jobs created in this country. They and their employees have suffered a workplace relations system that is adversarial, outdated, legalistic and complex. The need for a simplification of the industrial relations system is particularly felt by small businesses that do not have a payroll section and a human resources division. The complex and therefore time consuming and costly task of managing award compliance falls especially hard on small businesses and farmers. The Work Choices package aims to address this imbalance.

One of the main objectives of the workplace relations bill is to encourage the further spread of workplace agreements in order to lift productivity and hence the living standards of working Australians. Work Choices will deliver a simple, straightforward lodgment-only system for all agreements. All agreements will be lodged with the Office of the Employment Advocate, will commence on the date of lodgment and will need to meet the fair pay and conditions standard—

the new national safety net—throughout the lives of the agreements. Easier lodgment will encourage more businesses, particularly smaller businesses, to join the 300,000 workers from all around Australia that have switched to Australian workplace agreements in recent years.

Under Work Choices, 4,000 awards and their complexity and duplication will be reviewed. Some of those awards are totally antiquated. I had a look today at the plumbers award for Queensland and WA. It has a section listing the tools to be purchased and maintained in efficient working order and for which an employee is paid an allowance. It lists wood bits, soldering irons, wood braces, hand drills, ladles and shave hooks. Those tools are 20 years out of date. No-one has used those sorts of things for 20 years yet they are in an agreement. They are obsolete, they have been obsolete for a long time, but they are still in the award.

During my 23 years in parliament, a major issue constraining small business operators has been the country's unfair dismissal laws. As you know, Mr Acting Deputy President Barnett and Senator Nash, the stories about unfair dismissals and how small business people have been duped are legend. Work Choices will exempt businesses of up to 100 employees. And small businesses cannot get to it fast enough from the burden of the laws which have added significant cost to their overheads in defending often frivolous unfair dismissal claims. More commonly, businesses have paid go-away money for people to go away, saying, 'I am sorry, I do not want to go to court, so here is \$15,000 for you to run away,' to avoid the cost involved in drawn-out disputes. The laws were effectively a disincentive for small businesses to put on new staff.

No-one is going to do anything to put on a new employee if they have to play Russian

roulette. They will outsource the requirements of their businesses, such as the photocopying, they will get their wife to work or they will get the kids in, but they will not employ anyone extra unless they are forced to. The big winners from the Work Choices exemption will be the thousands of people who will find jobs because small business people will not be frightened of the possible negative consequences of employing people. That is going to create a greater demand, a huge demand, for a work force that is already undersupplied. The work force is undersupplied now. Employees will still be protected from unlawful termination stemming from some forms of discrimination, irrespective of the size of the business.

As I said before—and we have had this debate numerous times—why would an employer want to get rid of anyone? No employer would do that unless it was an absolute necessity—where they were faced with an unworkable situation. Listening to the other side, you would think that every employer was an absolute rogue who wanted to dismiss their work force. I had a small work force of nine or 10. I had them for 18 years. They were almost part of the family. Many of them were blue-collar workers—storemen and packers. They came to my warehouse, and many of them joined the National Party because they could see the fair way that they were treated by a National Party person. That is not a word of a lie. They stood on the polling booths for us, they joined the National Party and they became part of a family operation.

From the day the party was formed, on 22 January 1920, members of the National Party have been strong champions of industrial relations reform. The Nationals strongly believe, in principle, that the best arrangements are those developed by employees and employers in the workplace. We believe in the capacity of Australians to exercise choice

and to work together. We believe that cooperation and flexibility, not conflict and arbitration, are the path to prosperity and fairness. That is why National Party members strongly support the principles of the Work Choices legislation. The Nationals strongly support the cooperation and flexibility it will facilitate in the workplace and the increased productivity and prosperity it will deliver in our region. Australian workplace agreements have been in force for a number of years and have not had the dire consequences predicted by Labor politicians and the ACTU. In many cases they represent the only way for an enterprise to remain competitive in the modern world. Many industries of today were not around when awards were determined. Many awards were based on the old economy, characterised by nine-to-five operations, single income families and import barriers.

The reality today is that we have to be competitive in world terms. We have to feed the non-stop demand of retailers and consumers. There was no such thing as extended shopping hours when many of the awards were struck. A grocery supplier, for example, must be able to fill orders immediately or lose the market. This means that they must have flexibility in their work force and make efficient use of their labour 100 per cent of the time. They also have to meet today's more stringent food standards and quality assurance programs.

This works in favour of employees, not against their interests. Employers report a more satisfied work force because there is flexibility in working hours, which can provide a two-income family with the means to provide before and after school care or be with the kids on school holidays. There is genuine effort to reach mutually beneficial outcomes. That is the way to a happy work force and a happy company bottom line. Today's world is about meeting the customers' expectations. Rigid labour systems simply

cannot do the job anymore and most workers know and appreciate that the demands are different, too, from the old days. The wedge that unions try to impose between employer and employees simply holds both sides back.

As Leader of The Nationals in the Senate, I pay tribute to the hard work of The Nationals senators on the Senate committee inquiry. The Senate committee and the minister have indicated that they will support sensible technical amendments that seek to clarify and strengthen the intent of the legislation. These amendments will in no way compromise the principles of this important legislation. The Nationals stood strongly behind the waterfront reforms of the 1990s which now see our ports amongst the most productive in the world. Similarly, we will stand strongly behind the Work Choices reforms, which will increase productivity, prosperity and so greatly benefit regional and rural communities.

The Nationals have the strong backing of the rural sector and small business in supporting this bill. The National Farmers Federation's President, Peter Corish, agrees with it, as does Queensland Agforce IR Committee Chairman, Robert Pietsch. Small business in Australia has long argued that most employers and employees are capable of making their own arrangements and that our institutions and outdated laws too often impede sensible bargaining in the workplace. COSBOA's CEO, Tony Steven, agrees with it.

The Australian worker is better off now than they ever were under the ALP. Let us be perfectly clear that Labor's motivation behind their hysterical campaign is that they are hopelessly beholden to the unions. It is no secret that, of the 86 ALP caucus members, 41 are former union officials. I would like to take a count in the Senate, as I believe nearly 100 per cent of senators—

Senator Hurley—I wasn't.

Senator BOSWELL—I said 'nearly 100 per cent'. The ALP has received \$47 million since 1995-96. No wonder they are protecting the goose that laid the golden egg! That is what this is all about: protecting the ALP's source of income.

This legislation seeks to put control of the workplace where it belongs: as a relationship between the employee and employer with appropriate levels of protection for both. It is constructive and necessary legislation. I commend the bill to the Senate and I wish it a speedy passage.

Senator MILNE (Tasmania) (8.03 pm)—I rise to oppose the Workplace Relations Amendment (Work Choices) Bill 2005. I do so because there has been no demonstrated logic to support such legislation. In fact, what we have heard is a pure ideological position. It is ironic that those who have introduced this legislation accuse the Labor Party of being so indebted to the unions when in fact the whole driving force for this legislation is a pure ideological position.

We have heard from Senator Boswell and others that we have to have a modern workplace and we must be efficient and more competitive. When you ask people, 'What do you mean by a "modern workplace" and "efficient and more competitive"?' the answer you get is, 'Look at New Zealand. We have to compete with New Zealand, and New Zealand has 30 per cent lower wages.' You then begin to get some insight into the pretence behind an 'efficient and more competitive modern workplace' and what it means. It is simply an old-fashioned, low-wage workplace. That is where this legislation is taking Australia—back to an old-fashioned, low-wage workplace.

This legislation will undermine a lot of the things that people have fought for over the last 50 to 100 years to establish in Australia.

The basis of the Australian ethos is a fair go, and the government is actually removing a fair go from the people who are least able to withstand this attack. I will give an example of that—and I would appreciate Senator Abetz's response to this. I would like to talk for a moment about Braddon in north-west Tasmania. In Braddon, 30 per cent of people are on welfare, there is no public transport system to speak of, the population pattern dispersal is linear and there are a number of small towns.

What will happen in a place like that when the government's so-called industrial relations fairer workplaces et cetera intersects with the government's Welfare to Work provisions? What will happen is that those people will be forced to take a job on low wages with no penalty rates and with inadequate protection because if they do not they will lose the minimal benefits that they have. But they have no prospect of getting to the job in the first place and, if they cannot find a way to get to the job, they will be faced with a downward spiral. As Catholic Welfare Australia submitted:

The interaction of the Welfare to Work legislation with the Government's proposed industrial relations changes potentially create a situation in which an income support recipient is required to accept employment which does not include penalty rates, overtime and leave loadings for casuals, under threat of losing payment for 8 weeks.

During the course of the debate on this legislation I was approached by a number of nurses. They were distraught about this legislation because, as they pointed out, nurses like to get on with the job of nursing, of caring for people. They do not want to go and work out individual arrangements—individual workplace agreements. They want to be able to bargain collectively to establish wages and conditions that are appropriate for their sector and then get on with the job of nursing.

The second point they made to me was about the collegiate atmosphere and teams that operate in hospitals and on wards. You have to have a situation where people are on the same pay for doing the same work. If you create a scenario whereby somebody is able to argue for something better than a colleague you create dysfunction in the workplace, and we are going to find that. When you look at a number of teams, particularly the emergency services teams—firemen, paramedics, ambulance drivers and so on—all of them are saying the same thing, that this legislation will undermine the collegiate atmosphere in the workplace. Furthermore, as they have pointed out, it will undermine the safety and access to services—particularly in remote and rural areas—where service delivery is part of the award. Once this goes there is no guarantee that you are going to get the level of service you previously experienced in those places.

We heard from Senator Boswell that farmers need to compete, and on a so-called level playing field. Look at the ridiculous outcomes of the free trade agreement with the US and the proposed free trade agreement with China. China will never present to Australia the opportunity of a level playing field because in China wages are extremely low and products are subsidised by those poor wages and by appalling environmental and occupational health and safety standards. A factory worker in China is paid precious little and the damage to their health—and life, in many cases—is such that, when you incorporate those kinds of subsidies in terms of human rights abuses, environmental abuses and so on, no Australian farm worker, or farm operation, could compete on price. What we are looking at it is a pure and simple race to the bottom as Australia's so-called solution to the challenges we have.

What are the labour market challenges that face Australia today? The first is a la-

bour and skills shortage exacerbated by an ageing population. The second is the productivity slowdown. Then there are the work-family tensions and the growth of low paid, precarious employment. There is simply no reason to believe that the federal government's proposed changes will do anything to address these complex economic and social problems. Rather, the government's proposal will undermine people's rights at work, deliver a flexibility that, in most cases, is one-way—favouring employers and not employees—and, at best, do nothing to address work-family issues, have no direct impact on productivity and disadvantage the individuals and groups already most marginalised in Australian society. We are already seeing the gap between the rich and poor growing wider every year the coalition is in office.

Senator Abetz—That is the exact opposite of the facts.

Senator MILNE—That is not the exact opposite of the facts. I invite Senator Abetz to spend some time on the north-west coast in his state of Tasmania and tell people there—

Senator Abetz—I have spent more time on this planet than you have.

Senator MILNE—Considering your age, that is probably the case. But I urge you to go up to the north-west coast and have a look at what has happened there, because we have found that, with the government's economic rationalism, the public sector has been withdrawn from rural and regional areas and the level of opportunity in those places has been seriously challenged. We have had an influx of people moving from the mainland because they can access cheaper housing. So we are getting a demographic that is exacerbating the problems in the region rather than improving them.

I think that Australians will look back in horror on this period of government as they

see that, whilst it talked about competitiveness and so-called standards of living, Australian quality of life eroded. We have been told about the dramatic cut in unemployment that has occurred during the years the coalition has been in power. When people talk about unemployment, they do not talk about what constitutes a definition of unemployment. If people work for a few hours a week, they are deemed to be employed in the way the figures are counted. If you have a look around Australia you see this incredible increase in casualisation of the work force and loss of conditions. You find that families are much worse off than ever in the time that they are able to spend together as more and more people enter the casual work force.

More and more young people are forced to work in the evenings and on weekends. Just ask any of the sporting clubs around the country why they are having such difficulties with junior recruitment. It is because young people are being forced to work quite long hours, after hours, in order to finance their education. Many of them are university students who have been forced into that position by the introduction of higher fees. We have a situation in Australia where the government might look to issues such as its interest rates record, or quote the unemployment statistics, but that does not reflect the quality of life and the experience of people around Australia.

I think that the government has seriously misjudged the electorate when it comes to this legislation, because the one thing it is doing to the Australian people is introducing insecurity, more than ever. People do not like insecurity. People like to have some predictability in their lives, and this legislation takes away that predictability. The government is going to set up a scenario where Australian workplaces are going to have more and more of the rules of the corporation. Australian culture is going to become even more corpo-

ratized than it is now. You are going to have a situation where people cannot predict when they will be able to work or have time off. As for the so-called flexibility arrangements, the flexibility will be all on the side of the employer, not the employee.

If you want to get greater participation in the work force, particularly women participating in the work force, people desperately need predictability because of the caring responsibilities they have for children and elderly parents and for generally making an unpaid contribution to the community, which Australia has always benefited from. The government has saved billions of dollars as a result of people taking on volunteer caring and support roles that previously they may not have done, but this legislation is certainly going to take away people's opportunities to have the time to make that voluntary contribution.

The Greens will continue to oppose this legislation right down the line. We will continue to oppose it to the next election. We will go to the next election with a policy of overturning this, because Australian people want some security and predictability in their lives. In my view, the government exploits to a great extent the fear factor in order to frighten people into conservative choices, but on this occasion it has overstepped the mark. It has introduced such a high level of insecurity into Australian homes that people will not want to make decisions about purchasing goods and services. People will be afraid to make a change in their lives because of the insecurity that the government has introduced to the workplace, because once people go on these individual awards they stand to lose many of the conditions that have been hard fought for by the unions for a long time. The OECD countries generally have legislated to protect the rights of employees to collective bargaining. Australia has not done so, and it is to our shame that

we have not done that. I think it is something that many people will live to regret.

Whilst the government is arguing that it has a high degree of confidence that this will somehow make Australia a better place, it is in fact undermining the very fabric of Australian society by encouraging poorly paid jobs with irregular hours and little security, worsening the work-family balance. What sort of a legacy is that for a government to leave? It is a very poor legacy. It is giving employers power over employees instead of promoting innovative solutions based on equal partnerships. There can never be an equal partnership, particularly when you are talking about, in many cases, people who are young and inexperienced or people who do not have the skills to be able to negotiate a decent and fair outcome in their workplace arrangements.

We will find many people are disadvantaged by this legislation. Whilst the government may continue to pontificate about the fact that it is their own fault and that they should pull themselves up by their bootstraps, I would argue that the government is creating something in Australian society that we have not seen before, and that is a situation where people fear for their future because of the increased inequality between employee and employer in this country. The fabric of Australian society does not deserve to be torn apart in this way, and we will continue to oppose this legislation.

Senator EGGLESTON (Western Australia) (8.19 pm)—The new workplace relations system, Work Choices, will replace an outmoded system which was designed more than a century ago to meet the needs of a very different nation. The emphasis will no longer be on arbitration and centralised wage fixation. Rather than focusing on industries, there will be an emphasis on direct bargaining between employers and employees at the

workplace level, either in the form of a collective agreement or an individual agreement known as an Australian workplace agreement, or AWA. AWAs will allow for individual effort to be better recognised, and employees who show enterprise and initiative can be better rewarded.

A more flexible system will ensure higher levels of prosperity and productivity into the future. It is interesting to note that between the 1970s and early 1990s, under Australia's antiquated industrial relations system, our labour productivity grew by around 1.2 per cent annually. Conversely, from the mid 1990s, when reforms to the system were introduced, productivity growth increased to in excess of three per cent per annum. The Workplace Relations Amendment (Work Choices) Bill 2005 reforms are not revolutionary but evolutionary and build on previous reforms to the workplace relations system which were commenced—to give credit where credit is due—under Prime Minister Paul Keating. However, Mr Beazley has said that there is no need for further labour market reform, commenting in April this year:

The industrial relations lemon has been squeezed dry.

Senator Abetz—Who's the lemon?

Senator EGGLESTON—I think he is called Beazley. It is a great shame for the nation that the modern Labor Party, the party of Kim Beazley, has lost its reformist zeal and effectively stands for nothing. This was the party that floated the dollar, brought down protective trading barriers, deregulated the banking sector and embarked upon a raft of privatisation of government enterprises—all with the support of the Liberal Party, I might add—and in effect transformed the Australian economy. Mr Beazley's only plan for workplace relations is to turn back the clock. If Labor wins the next election, he has undertaken to undo the Work Choices re-

forms. Indeed, it is quite likely that Labor would do away with AWAs altogether. These are the very same AWAs that have seen workers on average earn 100 per cent more than employees on awards and 13 per cent more than employees on collective agreements. Like his fellow traveller Dr Gallop, the Labor Premier of Western Australia, Mr Beazley wants to put people back on awards to effectively make them worse off. He wants to take them right back to the 1970s.

Who can fail to forget the hysteria from those opposite and from their union masters when the Howard government introduced the Workplace Relations Act almost 10 years ago? What of all the doom and gloom that was predicted a decade ago? Today, in practice, Australia has a more productive labour force and increased living standards. Indeed, since 1996, real wages have increased by 14.9 per cent, almost 1.7 million new jobs have been created, strikes are at record low levels, inflation is low and unemployment is at its lowest level in almost 30 years. So much for all those predictions of doom and gloom.

Let us look instead at the so-called halcyon days of industrial relations under the Labor Party. I am sure that we all remember the much vaunted accords. What did they deliver, you might ask? The answer is stunted and stagnated wages growth—almost no growth at all. In fact, over 13 long years, real wages grew by just 1.2 per cent. Those on the minimum wage actually went backwards, experiencing a decline in their wages of five per cent in real terms from 1983 to 1996. That is the woeful record of the union movement and the Labor Party in government. Kim Beazley recently made the proud boast that:

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

This is from the leader of the party that has the effrontery to claim to be the friend of the workers.

Senator Abetz—The workers don't believe them.

Senator EGGLESTON—I am sure they do not, Senator Abetz. They have more intelligence than that. Their intelligence is shown by the fact that they have kept on returning the Howard government to office. Contrast that record of Labor with that of the Howard government since 1996. Real wages have increased by no less than 14.9 per cent.

So what of Labor's record of job creation when it was last in government? In December 1992, when Labor was still in office and Kim Beazley was minister for employment, the unemployment rate peaked at 10.9 per cent. Indeed, in Labor's last two terms in office the unemployment rate averaged 9.2 per cent. In June 1996, shortly after the Howard government was first elected, the unemployment rate was more than eight per cent. In the intervening period, the unemployment rate has fallen by around three per cent so that in October this year it stood at 5.2 per cent. In fact, employment is at a record high level of more than 10 million people, with 7.1 million people in full-time employment. The average annual jobs growth under the coalition has been 175,000 jobs, compared with 101,000 in the last seven years under Labor. During Labor's final two terms of office, just 53,400 full-time jobs were created.

Research commissioned by the Business Council of Australia has indicated that in the absence of the government's workplace relations reforms the average unemployment rate would have been 8.1 per cent in 2004 rather than 5.8 per cent. In other words, unemployment is over two per cent lower than would have otherwise been the case. I am confident that Work Choices will create en-

hanced employment opportunities in service industries such as tourism in particular. It is the tourist industry more than almost any other which will benefit from these changes.

Finally, let me say something about the creation of a unitary workplace relations system. This new federal system will apply only to constitutional corporations. This generally means companies and businesses incorporated under state and federal legislation. As a result, the changes will not apply to those employees not employed by constitutional corporations, and consequently they will remain within the state system. In Western Australia, this has been a matter of some controversy. Australia is a federation with a Constitution that gives the federal government very defined powers and which effectively diffuses powers between the central government and the various states. As many authorities, including Professor Greg Craven, have observed, the spirit of federalism is under some stress in contemporary Australia. The external affairs power and other powers have been used in ways never envisaged by the founding fathers to effectively broaden the scope of federal power and to take on responsibilities which are seen in some quarters, perhaps, as more rightly those of the states.

In Western Australia there is a body of opinion that would prefer Work Choices did not create an overarching national workplace relations system and that the states retained their ability to maintain their own systems so that there was a choice between the federal and state industrial relations systems. This view is based on the experience Western Australians had when the Gallop government came into office and immediately abolished workplace agreements and the industrial relations system which Mr Richard Court had introduced during his period in office. In the view of many, Geoff Gallop and his government took industrial relations in Western

Australia back to the 1970s. As a result, many WA industries switched to the federal system and in WA there is, I have to concede, some concern that if and when the Labor Party regains office federally—which I doubt will be in the near future—the option of switching back to a, hopefully, more congenial state system will not exist. I have explained the argument for choice within the forums of the government and put the Western Australian position. Now, having listened to the arguments on both sides, I have decided on balance to support the concept of a national system for corporations because of the economic benefits to Australia as a whole.

In conclusion, Work Choices is a system that will ensure greater productivity gains for industry and workers across this country. It is a system that will allow employers and employees to sit down together to negotiate wages and conditions whilst supplying the safety net of the Australian fair pay and conditions standard. Under the Howard government's program of reform, Australia has undergone much needed changes such as the introduction of an indirect taxation system and reform of the waterfront. Industrial relations reform is perhaps the most important step forward in making this country a more internationally effective economy, so giving all Australians a more prosperous future in an ever-changing and more competitive world.

Senator CAROL BROWN (Tasmania) (8.32 pm)—There is little doubt that the changes before this chamber will have a dramatic effect on Australian workers and their families. There is also little doubt that the rationale behind these moves is to pay people less. The goal is simple: to cut the wages of Australian workers in the future. The government calls these new moves Work Choices. But what it really means is 'no choice' at all. Under these moves Australian

employees will only get penalty rates and conditions if their bosses say so. That is not a choice; it is no choice. Under these moves Australian employees who work in businesses that employ fewer than 100 people can be sacked for virtually any reason. That is not a choice; it is no choice. Under these moves, in firms with more than 100 employees where operational reasons apply to your sacking you cannot make a claim of unfair dismissal. That is not a choice; it is no choice.

The full suite of working rights is up for grabs under these laws. Penalty rates for weekends and after hours work, overtime pay, allowances, public holidays, redundancy pay and meal breaks can all be 'bargained away'. But this is 'bargaining' in the loosest sense of the term. What the government really means is that your employer gets a bargain, cashing in your entitlements, while you, the worker, get nothing in return. It has been a cynical exercise for it to attempt to pass off this extreme, ideological dream as a 'bargain' for Australian families. We should make no mistake: hard-won rights will be taken from workers under these proposals. They will not be protected by law. And what will be the result for many Australian workers and their families? Reduced pay, poorer conditions and little recourse to unions or industrial courts to fix it. What sort of a 'bargain' is that?

Anyone who doubts that the Workplace Relations Amendment (Work Choices) Bill 2005 is about slashing wages and reducing conditions should recall the words of the Minister for Industry, Tourism and Resources, Ian Macfarlane, on 2GB with Alan Jones a few months ago. In a moment of honesty and frankness, in complete contrast to the subsequent spin of the government's \$55 million taxpayer funded advertising campaign, he revealed the real intent of these laws. He said:

We've got to ensure that industrial relations reform continues so we have the labour prices of New Zealand ... They reformed their industrial relations system a decade ago. We're already a decade behind the New Zealanders. There is no resting.

There is no resting for this government until it drives the real wages of Australian workers down. Anyone with even the vaguest knowledge of the New Zealand labour market can tell you that today, on average, New Zealand wages are around 20 per cent lower than equivalent Australian wages. Even with a 36 per cent increase in the minimum wage under Helen Clark's Labour government, New Zealand's minimum wage is still only \$9.50 an hour. Meanwhile, under the current system, Australia's minimum wage sits at \$12.75.

These reforms are painted by Senator Abetz and others as 'flexible', but again they really mean something quite different. What is meant by 'flexibility' is inflexible arrangements for workers and complete flexibility for employers. That is why Peter Hendy at the ACCI and his mates are so keen on this bill. Forget ideology and theories. Think about it in a practical sense. What flexibility does a young uni graduate have when desperately seeking a first job? None. What flexibility does a factory worker in a one-company town have when the boss wants his weekends 'bargained' away? None. What flexibility does a retrenched middle-aged woman have when attempting to re-enter the work force? None.

This government is so out of touch it pretends these scenarios are a level playing field. If the implications were not so serious, we would think this was a joke. As Dr Bruce Felmingham, a respected economist from the University of Tasmania, put it in a recent opinion piece:

The buzz phrase among labour market reformers is labour flexibility, which really means limiting

the tenure of employment contracts, making it easier for employers to dismiss employees, taking the unions out of the equation and ultimately to make minimum wage provisions flexible in a downward direction.'

Dr Felmingham is, of course, right and he is not alone. Eminent economists and commentators have pointed out that there is little if any substantive justification for these changes other than cutting wages. The argument and logic of the government's message just does not stack up. That is why the Prime Minister is so desperate to see the legislation debated and passed before Christmas. It is why he has had 11 of the biggest law firms in this country write all 1,252 pages of it for him. Ultimately, it is why he spent \$55 million of taxpayer funds—more than both major parties spent on the entire federal election campaign in 2004—to try to sell his message to the Australian public.

But Australians are not being duped by the spin, doublespeak and hollow words of this mean-spirited government. Every published opinion poll points to the fact that two out of every three Australians oppose these proposals. Why? Because this is not about spin; it is not about happy people waving in the background of a glitzy advertising campaign; it is about basic values and the lives of real Australian families. It is about the value at the heart of this nation—a fair go for all. This government has spent around \$2.75 on every single Australian man, woman and child trying to persuade them that these insidious changes are a good idea, but it has not worked. No government can get rid of a nation's values for \$2.75 a head.

You might think that if the Prime Minister can give no guarantees that people will not be worse off under these changes, there is surely a role for independent employee groups to make sure things stay on track. But, sadly, that is not the case under these extreme proposals. In the same breath as the

Prime Minister refuses to provide a guarantee that workers will not be worse off, he seeks to crush the very unions that would represent anyone who is made worse off in the future. It is like a strange sort of insurance policy: 'I cannot rule it out now but if I have my way you will never hear of it in the future.'

Under these laws union officers can be fined \$33,000 for seeking a range of ordinary and sensible measures to protect workers—\$33,000 for asking an employer to include in an enterprise agreement provisions to: remedy unfair dismissal, include unions in dispute resolution, allow employees to attend trade union training, commit the employer to negotiate future collective agreements or request any other aspect the federal minister decides should be illegal. That is \$33,000 for each one of those offences. It is as extreme as it is offensive. These penalties are a blatant attempt to silence the stories of hardship that will emerge from workers and unions in the future, when the effect of these changes begins to bite.

As I have said on a number of occasions in this chamber, the myth of reform in the case of these laws is just that—a myth. Reform implies positive, structural improvement and progress. But what is proposed here is not reform at all. It is a clear case of dismantling, destructing and eroding the protections afforded to Australian workers and their families. It is setting fire to the safety net that underpins our liberal economy. There is no way of describing these moves as anything other than regressive ideological politics at its worst. They are the Liberal articles of faith, as the Prime Minister told his party room. But for real Australians these articles of faith mean that the value of fairness will be obliterated from the industrial relations system of this country.

Contrary to the rhetoric we hear from the other side, this is not about more jobs and higher wages; it is about dismantling a system that took more than 100 years to evolve. That system works, that system is balanced and that system is fair. These laws, on the other hand, are all about cutting wages, undermining the work/family balance, creating an underclass of Australian working poor and destroying the unions that would represent them. They are confirmation that after nearly 10 long years this government has run out of ideas. Having run out of ideas in the present, it is sending us back to the 19th century to repeat our IR lessons. And the 19th century is where we will stay on IR until we learn anew the lesson of balance between liberal economic practice and decent legislative protection for working people in this country or we return a Labor government to tear these laws up.

This government is into slashing wages and protections for Australians in the work force; the Labor Party has a different way—the high-skills way. On this side of the chamber we understand that you achieve growth and your goals as a nation when you look after the people who work to make the nation great. You compete with China, India and our other competitors in the international sphere on skills and innovation, not wage costs. The moment you try to compete on wage costs you have already lost, and so have the workers of Australia. Throughout the government's spin campaign we have heard the message: you keep what you have got. Nothing could be further from the truth. The rule under this system is not that you keep what you have got but that you will get what you keep—and workers are keeping a lot less under these changes.

Under these laws, the 20 statutory standard protections that Australian workers enjoy will be replaced with just five: a minimum hourly rate of pay, 10 days sick leave,

four weeks annual leave, unpaid parental leave and a 38-hour week. But even elements of these are up for negotiation. Two weeks of your annual leave can be bargained away and your 38-hour week can be averaged, as it is flexible. It is feasible that you could do 60 hours for 12 weeks and then 16 for 12. Who knows what ratios or scenarios might unfold in the new labour marketplace? Imagine the impact on family life of uncertain and irregular hours and income levels. Imagine the impact on family budgets, with penalty rates gone and wages slashed. How can you pay a mortgage if one week you earn \$765 and the next you are back to \$204? How could you even get a mortgage, if you want a home, with that level of variation in your income? How could a family cope with this level of uncertainty or meet the costs of living?

For that matter, we should ask ourselves seriously how we and our families could cope. As Dr Don Edgar, the foundation director of the National Institute of Family Studies, suggests in a family impact statement prepared for Unions New South Wales on this legislation:

In my view, the proposed legislation breaks the nexus between family needs and appropriate wage rates, and potentially undermines the links between decent job conditions and family wellbeing.

He goes on:

These proposed IR changes are a recipe for a more savage workplace, a less caring society, an individualistic, competitive auction room with no collective spirit.

We should not kid ourselves—these laws are anti-family in the most fundamental sense. All too often in this chamber we get lost in rhetoric. We forget the real, human impact of the laws that we make. With these laws we are forgetting that many people are already doing it tough and are fearful that things will get tougher once the protections of our IR system are removed.

I am sure that senators on all sides have received tens, if not hundreds, of letters, emails or telephone calls making this point. In a letter to me recently, a constituent from my home state said:

I am extremely concerned about the new IR laws for two primary reasons.

A: As we have a twenty year old son doing an apprenticeship I recently wrote to the PM's office requesting information regarding apprenticeships and the protection there of.

We have never received a reply.

B: My son works a ten hour day for low apprentice wages and he has pressure applied to work Saturdays.

My son comes home at night totally exhausted and is generally in bed by 8pm sound asleep until his alarm wakes him at 5.40am ready to go again.

I presume this situation could well worsen under the new laws.

Is this the way we should be treating our valuable youth?

So I ask you all this question: is it?

Equally, is it a good idea to be going down this path when as a nation, with our economy going comparatively well, we still see outrageous abuses of employees' rights? Take, for example, the case of Sydney teenager Andrew Cheong, as reported in the *Australian* last week. Andrew had always dreamt of becoming a carpenter, but got saddled with a dodgy boss who did not pay his wages, did not register his apprenticeship and used him as a labourer and cleaner only, instead of training him in his trade. It was only when a union intervened, using the existing protections of a state award and the New South Wales Industrial Relations Commission that he got the money that he was owed. Those avenues will not be there for others like him in the future. What would happen to someone like Andrew in a recession environment under these laws?

Recently, with the Tasmanian federal Labor team and our leader, Kim Beazley, I hosted a 'Last Ever Weekend Barbecue' in Hobart. It was a fantastic event, attended by around 150 people, and served to highlight the impact of these laws in my home state. It sought to bring home the reality that these changes in the Tasmanian environment will have a more profound negative effect than anywhere else. For example, already we know that Tasmanians earn, on average, less than Australians in other states and territories. Take a look at the median weekly family income figures, for example. In June 2005, Tasmania had a median weekly family income of \$852. At the same time, Australia as a whole had a median weekly family income of \$1,114—a difference of \$262 a week.

From that sort of start, the last thing Tasmanian workers can afford is a low-wage, American-style industrial system. In the US, the minimum wage has not increased in eight years. In real value, it has actually declined by 14.9 per cent, but living costs have gone through the roof. Tasmanian families would wither under a wage freeze and a real wage decline of this magnitude and nature. Similarly, the unfair dismissal changes this bill proposes are a huge concern in Tasmania as it has a higher proportion of small businesses compared to other states.

In Tasmania more than 90 per cent of all businesses have fewer than 100 employees, or, to put it another way, more than 90 per cent of private sector employees in Tasmania work for businesses with fewer than 100 employees. Under these laws, the employees in these businesses would have no recourse if they were unfairly sacked. The 'Last Ever Weekend Barbecue' was a great success in bringing these issues forward in the Tasmanian community and a great precursor to the nationwide rallies on 15 November where more than half a million Australians gath-

ered. But what was the response of Senator Eric Abetz, the state's senior government member, to the concerns expressed at this event? He was unmoved and attacked them, alleging it was hypocritical to host a 'Last Ever Weekend Barbecue' and invite journalists to attend it on a weekend. But we should not be surprised at this reaction. It was, sadly, in keeping with the government's standard response to community concern about these laws.

Following the national protests on 15 November the Prime Minister was similarly unmoved by community concern. The concerns of more than 500,000 workers and their families could not move their Prime Minister. Nothing demonstrates more how out of touch this extreme, conservative government has become. As one article put it:

John Howard has thumbed his nose at hundreds of thousands of protesters opposed to his workplace changes, saying most Australians will look back in bewilderment at union anger once the new laws are in place.

These are just two examples of what is a general antipathy towards human stories and human concern from the government in this debate.

For another example, cast your mind back to the words of the Treasurer in August this year, when he made the telling remark to the *Australian* that these IR reforms were nothing on the GST:

IR is a big reform, but IR, for starters, only affects people in the workforce.

Yes, Treasurer, it only affects people in the work force—more than 10 million of them nationwide—and people are rightly concerned about the nature and the scope of these changes for themselves and for their families.

Along with the hundreds of thousands of working Australians, hundreds of eminent groups and individual experts have voiced

their concerns about these proposals, including: the Sex Discrimination Commissioner, Pru Goward; Cardinal George Pell of the Catholic Church; Reverend Dr Ann Wansbrough of the Uniting Church; Bishop Philip Huggins of the Anglican Church; Rabbi Jeremy Lawrence; 151 eminent Australian academics; and more than 60 women's groups from the What Women Want Consortium. On top of that, we have received more than 4,500 submissions to the Senate Employment, Workplace Relations and Education Legislation Committee, most of which raised concerns about the path we are taking here. There is a huge amount of concern for what is a radical revolution in the Australian working landscape, but this government is not listening and it is not interested in listening.

The path of these laws through this parliament might be somewhat certain, but the future of these laws is definite: they will slowly erode the pay and conditions of Australian workers; they will cause hardship and pain for families; they will remove the protection of unions from many in our work force; and they will be regarded as the failed and flawed experiment of an ideologically driven government. This will not happen tomorrow or later in the week, when this bill is passed; it will take time. But, make no mistake, this bill is wrong, this bill is an attack on all Australian employees and this bill should be relegated to the dust bin, where it belongs. No amount of tinkering at the edges in this chamber will change that. That is why Labor opposes this bill.

Senator BARTLETT (Queensland) (8.52 pm)—The Workplace Relations Amendment (Work Choices) Bill 2005 is detailed and complex, as many speakers have said. It has to be said every time we speak on this issue that the amount of time that the Senate Employment, Workplace Relations and Education Legislation Committee was given to examine the legislation was nothing short of

disgraceful—and, of course, not just the lack of time that the committee was given to look at it but the lack of time the community was given to look at it.

In some respects, despite the complexity of the legislation and the enormous amount of detail, the core elements are fairly simple. The key thing that the legislation does, above all, is destroy the fair go in the Australian workplace and, indeed, in Australian society in many respects. It does not just destroy it; it endeavours to smash it into a million pieces. I think the big question is whether or not it is actually going to be possible to restore it. To some extent I suspect that question will be answered at the next election, not just in terms of who is elected to government but, equally importantly, who is elected to the Senate. If the coalition maintains its majority in the Senate, or at least a blocking majority, then even if it loses office the prospect is that these changes will not be able to be wound back or repaired—and I am not sure if we can actually wind them back—to fix up their many flaws. If that opportunity is not there and it is not able to be done in a couple of years time then I suspect that the damage caused by this legislation may be pretty much permanent.

Having said that, there will undoubtedly be some individual winners from the changes made in this legislation, but there will also undoubtedly be just as many losers—in fact, probably a greater number. Leaving aside the ledger counting up the number of individuals who win and are better off and the number of individuals who are worse off, I think it is quite clear that as a society we all lose. My colleague Senator Andrew Murray from Western Australia sat through all of the evidence presented to the inquiry and, I would suggest, has been more immersed in industrial relations legislative issues than the vast majority of senators in this place. His assessment of the evidence is that this legisla-

tion is likely to threaten not just our society but our productivity and our economy. I totally agree with his assessment.

It is a matter of great frustration to me that the very extreme and ideologically driven measures that are contained in this legislation were not given the attention they deserved during the last election campaign because, of course, they were not actually mentioned during the last election campaign. Whilst we all knew that the Prime Minister had a longstanding ideological obsession with attacking the union movement and reliving in the 21st century the class warfare of a bygone era, this was not actually given any flesh in the last election campaign. There was no detail or promise of any sort of extreme measures like this in the last campaign, or even if you looked back to the range of legislative measures that the government had put forward over the eight or nine years they had been in power. There were certainly some ideologically extreme measures in amongst those, but this legislation even goes far further than all the most extreme measures that the coalition put forward in a wide range of legislation over the last eight or nine years. The simple fact is that the very extreme, ideologically driven measures that are contained in this legislation were not put before the Australian people at all; they were hidden from the Australian people. And I suspect that if the Senate result had not turned out the way it did then they would have remained hidden.

The last election campaign was particular frustrating from my point of view because, as leader of the Democrats at that time, I was trying to draw the attention of the public and the mainstream media to the real possibility that the coalition could gain control of the Senate. I chose the best area to highlight where this would make a huge difference—industrial relations—because we could see the sort of extreme measures the government

had tried to put forward, and they had been prevented from having them passed into law because of the approach of the Democrats. But, as all senators would know, the Democrats have not taken an approach identical to that of the Labor Party or the Greens over the last eight or nine years of simply opposing every piece of industrial relations legislation. We have also supported many pieces of legislation in this area—about 19 or 20 specific pieces of legislation—including some quite significant ones. What we did was amend the extreme, ideologically driven measures that did not have evidence to back them up as improving productivity without unfairly disadvantaging some of the less powerful in the labour market.

Our record in the industrial relations arena is probably the perfect demonstration of the consistent exercise of the balance of power in the Senate. We are able to balance the union focused approach of the Labor Party and the similar ideological approach of the Greens with the ideological mirror image on the part of the coalition. We were able to take a middle path that I believe has stood the test of time. The results have shown that it has been a pretty good effort. I would not suggest it is a perfect record, but certainly it was quite a good effort to balance the competing arguments and priorities in this difficult and complex area. Sadly, now we are reduced to the entire nation hoping they will be able to leverage a few extra marginal gains through the efforts of Senator Joyce, from my state of Queensland. That is not to criticise Senator Joyce—at least he is putting in a bit of effort and at least he is not just swallowing the nonsensical, misleading and farcical propaganda the government is putting forward as a substitute for argument. He is putting in a bit of effort—

Senator Conroy—Please, there are 12,000 Telstra workers who have got Barnaby Joyce's phone number!

Senator BARTLETT—Nonetheless, I think that to suggest that somehow or other we can all rely on Senator Joyce to fix all of the flaws in this legislation is a bit of a forlorn hope. I think the contrast between what we will get from Senator Joyce in that balance of power role and what the Democrats were able to deliver in the industrial relations arena over the last nine to 10 years is pretty stark. It shows how enormously significant that very slender Senate majority win of the government at the last election has turned out to be. As I said, it is therefore a matter of continuing frustration that attempts were made at the last election to point out not just the real prospect of the government gaining control of the Senate but also the example of the industrial relations arena as a clear area of law where it would make an enormous difference. That message was not able to get through, obviously. We are faced with the result this week.

It is interesting to look at the government's response to the various criticisms about this legislation. Firstly, we have had the flagrantly corrupt misuse of the public's money in simply buying over \$50 million worth of advertising to try to con people into thinking that there is nothing to be concerned about. On top of that, we have had basically just a few recycled mantras as a substitute for argument. One of the most common ones we have had from the Prime Minister and others is that his guarantee in this area is his record—people should be comfortable about the outcome of this legislation because Mr Howard's record shows that he can be guaranteed not to harm people in the industrial relations area.

The problem with that, of course, is that the record in the industrial relations area is not Mr Howard's; it is the Democrats' and the Senate's record of fixing up the extreme and ideologically driven components of the legislation that was put forward. We have

heard it again today and many times in recent months. Government ministers have repeatedly said that everybody said the sky would fall in under the 1996 legislation and it did not happen. We had Senator Barnett today quoting Mr Stephen Smith and Mr Beazley from 1996, who said that it would lead to worse conditions and a massive rise in industrial disputation, and it was about the abolition of safety nets. And then Senator Barnett said, 'See, none of that happened.'

The fact is that none of it happened because the Democrats moved well over 100—I think it was 160 or so—amendments to that legislation to ensure that it would not happen. It would have happened had it not been for the Democrats and it will happen this time because the Democrats, sadly, are not in a position to prevent it from happening anymore. That is a decision that the electorate made, of course. They had a few good reasons to punish the Democrats at the last election. I am not disputing the electorate's choice in that respect. I am simply talking about the consequence of it. The consequence of it is that the ability of the Democrats in the Senate to prevent those sorts of outcomes, which we were successfully able to do back in 1996, is no longer there.

You simply cannot say, and it is dishonest for government members to continue to say, that all of these predictions were made in 1996 about major changes to the legislation that happened then and those predictions did not come to pass. The predictions were about legislation that did not end up passing into law. The legislation that was passed into law was dramatically and comprehensively amended by the Democrats under then leader Cheryl Kernot and agreed to with the government. It was radically different from the legislation that was initially put forward.

To try and draw comparisons with predictions from 1996 is simply dishonest and mis-

leading. Perhaps one should not be surprised about that, because a lot of the government's campaign around this particular issue and their propaganda have been dishonest and misleading. Nonetheless, that lie must be called for what it is. It is a simple fact that the predictions that were made or the concerns that were expressed in 1996 were about the unamended legislation. The legislation that was passed addressed the vast majority of those concerns because of the 176 amendments that the Democrats were successful in moving at that time.

What we have in this legislation is a deliberate and clear attempt to lower wages, reduce conditions and abolish safety nets. We have the abolition of the no disadvantage test safety net against the comprehensive award structure that it was used to measure against. This is not a perfect mechanism. It is like every mechanism; it does not operate with total perfection. But the simple fact that this legislation quite flagrantly and deliberately seeks to remove—or seeks to gut, anyway—the accurately described no disadvantage test against the comprehensive protection of the award gives a pretty clear indication that some people are going to be disadvantaged. It is basically there in black and white.

The fact is that, apart from destroying the fair go, a large part of what this legislation is aimed at is simply continuing the old class war and attacking the trade unions. As my colleague Senator Murray said, this is in part driven by the political interests of the coalition parties. They are doing whatever they can to weaken not just the trade unions but also the ALP. It is fairly clear that the coalition see the union movement as politically synonymous with the Labor Party. Any opportunity they can get to damage the union movement they see as damaging the Labor Party and its funding base as well. There is obviously some degree of truth in links between the Labor Party and the union move-

ment, but to call them synonymous is overstating the case enormously.

Nonetheless, it is without doubt that, if the union movement's strength and financial position were weakened, that would weaken the Labor Party and that would be to the advantage of the coalition. That is all very good as a political game and a political strategy, but unfortunately the victims of this clever little piece of game playing will be the Australian people, and they should not be the sacrificial pawns in any sort of game playing, political or otherwise. It is very unfortunate that the ideological obsessions of the Prime Minister and many within the government are so extreme that they are quite prepared to do that for political advantage and for the opportunity to fulfil those irrational ideological obsessions.

To summarise, the legislation, as the comprehensive minority report of Senator Murray indicates, is flawed in a wide range of ways. For the long period of time—just over eight years—that I have been in the Senate, industrial relations is probably the area where the Democrats Senate team have spent the greatest amount of time. That has been a consequence of it being consistently the area where we always found ourselves with the balance of power and because the issues involved are often complex and difficult. Certainly in the period when I was the Leader of the Australian Democrats, it was an area that I paid a lot of attention to, in conjunction with my colleague Senator Murray, because the issues were difficult and complex and the judgments that had to be made about what was acceptable and what was not acceptable were sometimes quite difficult and finely balanced. But it is one that the entire Democrats Senate team worked consistently on together for many years. It is worth emphasising that, without exception, we always came to a unanimously supported final position.

In passing, I note a quite bizarre comment from Matt Price, who in a range of the Murdoch papers on Sunday described Senator Murray as 'easily the most conservative senator ever elected to the Democrats'. Senator Murray is a lot of things, but I certainly would not call him the most conservative of Democrats there has ever been. I could name quite a few others; I will not go down that path. But the simple fact is that—

Senator Conroy—Go on: name them.

Senator BARTLETT—I am a pretty conservative guy in a lot of circumstances, I would have you know, Senator Conroy.

Senator Conroy interjecting—

Senator BARTLETT—The fact that you dye your hair does not mean that you do not have conservative economic beliefs.

Senator Conroy—What about the ear-ring?

Senator BARTLETT—I do not think fashion sense actually links to economic policy beliefs. Trust me on this. It is worth emphasising that the positions of the Democrats in the industrial relations arena over many years have been the unanimous positions of the entire Democrats Senate team on each occasion, going back even to the Kernot era—and the Labor Party were sufficiently impressed with her that they took her away so I could replace her.

Senator Carr—What an improvement!

Senator BARTLETT—I think so. So it is important to emphasise that this is a consistent position of the Democrats. The well-argued position put forward in the Senate committee report by Senator Murray is comprehensively supported by all the Democrats, and that is a progressive position. It is one that balances and recognises the need for the continual evolution of our workplace relations system, but it also recognises that we do have some solid economic fundamentals,

in large part because of the record of the Democrats. There is no justification for an extremist, explosive device being thrown in the middle of it, as this legislation represents. (*Time expired*)

Senator FIFIELD (Victoria) (9.12 pm)—At the last election, the people of Australia put their trust in this side of the house. When they did so, they had a pretty fair idea that we would lower tax, that we would try to liberalise Australia's labour market and that we would privatise Telstra.

Senator Vanstone—And workers' wages have gone up.

Senator FIFIELD—Yes. Senator Bartlett was making the point that the people of Australia had no idea what the coalition would do in terms of industrial relations and that we had somehow hidden our policy in the lead-up to the last election. I do not accept that for a moment. Australians had a pretty fair idea of what we wanted to do in industrial relations. We had been talking about it for nine years in government. Even if that were the case, even if Senator Bartlett were right, that proposition is really saying that a government only ever should have the capacity to implement what it said at an election, and that presupposes that the environment that pertains on election day is static—that the economy will remain static, that the international environment will remain static and that everything will remain static.

Obviously and clearly, a government needs to have the capacity to govern, to legislate, to respond to events and to do so in the best way to set Australia up for future economic prosperity. While I do not accept the proposition of Senator Bartlett, even if it were true, governments still need the capacity to respond to circumstances. If the public do not like what the government do, the public will vote that government out. But, as I said, I do not accept the premise in the first

place. The public did speak through their vote at the last election: not only did they deliver the government a fourth term but they also delivered a mandate of trust in the government by giving it the majority in this chamber.

The reforms that we are talking about today have been opposed routinely by the opposition. Whatever we have done in industrial relations since we have been in government has been opposed by the opposition. What we have seen today and have seen over the last few months is a predictable Labor scare campaign. One of the most common refrains that we hear from the opposition is that the legislation is going to lead to class warfare. In the words of the Leader of the Opposition, ours will become a dog-eat-dog society. We have heard that rhetoric before.

Employees know that they have a lot more in common with others in their own business, from the management down, than they do with people working in a competing business. Workers realise that, just like management, they are better off when it is their company that wins contracts, when it is their company that is doing well, when it is their company that is exporting and when it is their company that is making a profit. They realise that when their company grows and is profitable that is good for them, good for the employer and good for their co-workers. A profitable company keeps those workers in higher paying jobs. In turn, the workers are valued by their company for the productive contribution they make to that business's success. Employees realise that being flexible and competitive will give their company the edge and help their company grow. There is no need for there to be an 'us and them' approach. Cooperative engagement between employers and employees leads to increased prosperity. The workers know this. A relationship of cooperation leads to a better business.

The socialist paradigm of class struggle is not even a 20th century concept; it is really something that belongs back in the 19th century. Over 3.2 million Australians work in more than one million small businesses. Often there is not a clear delineation between employers and employees in these businesses. Every working Australian today holds shares in superannuation, in effect. The Australian Stock Exchange found last year that eight million Australians also hold shares as assets. Every working Australian has a vested and long-term interest in the success of companies across industries. We are more active in business ownership than ever before, directly or indirectly. So we need to move away from the view that there is strictly an employer-employee model.

Back in 1993, even Paul Keating recognised that unprofitable businesses meant unemployment and low wages. By contrast, profitable businesses can pass on their profits to employees. Just like the Labor scare campaign on the 1996 Workplace Relations Bill, Senator Bartlett, referring to the legislation which was originally proposed by the government, said that our claim that people did okay out of it has no merit. The reality is that we accepted the changes. We accepted the amendments that were proposed by the Democrats. That did not stop Labor saying that it was going to be the end of the world as we knew it, even with those changes.

As usual, the opposition proposed that the sky would fall in, as they did with GST and as we saw with the scare campaign before the legislation to privatise Telstra was passed. Their rhetoric will be seen as hollow once this legislation has been passed and comes into effect. It will be very much like the Y2K phenomenon. People may be scared—in this case there is a scaremongering campaign—but they will wake up and find that nothing has particularly changed in their business. The country will not descend

into chaos. Life will go on. Instead we will see a stronger economy with more jobs. Hopefully, there will be fewer strikes and less industrial action. Higher wages and more prosperity are what we want to see.

The Workplace Relations Amendment (Work Choices) Bill 2005 is about promoting fairness in the industrial relations system. It is about higher wages, higher skills and, more importantly, a better outcome for families. The object of this legislation is to bring freedom to the employment market so that employers and employees are free to negotiate and work as best suits them. But it will be a system that has stability and that guarantees fairness and equity. The Work Choices package provides choice to workers, employers and owners of businesses. A single national system of industrial relations will do away with a lot of the red tape that is making life difficult for workers and many businesses.

Labor have retorted often through this debate that, while employees may be in a strong bargaining position in the current strong economy, the economy will not always be strong. They have said that we have to pass legislation to take account of the fact that it will not always be a strong economy and that workers will not always be in such a strong position. It is true that if the economy does begin to slow there are no guarantees that people will be in jobs. You cannot legislate jobs into existence. If the economy does slow we will find that, as a result of this legislation, wage growth will indeed be contained, but that will actually help to prevent the mass lay-offs that we saw in 1992. It is when wages grow faster than consumer prices that unemployment rises. During a period of economic recession, businesses that cannot contain wage growth are forced to lay off workers. They are the facts.

Through this we see the hypocrisy of the ALP and the ACTU. In a slowing economy the best thing we can offer Australian workers is employment. It is better to have as many Australian workers as possible in jobs than to lay off half the work force while forcing business to retain the other half on unrealistic and impossible wage levels. It is important to have flexibility, not just so that businesses and employees can establish the best arrangements for themselves but also so that workplaces can respond to the changes in the economy. None of us wants to see an economy that slows. Businesses, employees and the government—all of us—want to see an economy that continues to grow and continues to be strong. You cannot legislate a job. You cannot legislate higher wages if you have an economy that is slowing and businesses that are failing. We need businesses to have the flexibility to cope with the economic circumstances to prevent the downward spiral in employment reminiscent of the recession that we experienced under former Prime Minister Keating. The government wants to do everything it possibly can to make sure that we do not go into an economic downturn.

The first goal of these changes is to promote the use of Australian workplace agreements. The legislation will encourage workers and employers to talk to each other. That is not a radical concept. It is far better for people to sort out issues together, rather than automatically defaulting to unions, commissioners and judges. This benefits both sides of the negotiating table. Open, collaborative and empathetic behaviours will result in less hostile workplaces, cost-effective bargaining and negotiating and more involvement of employees in the management decisions of businesses.

Streamlining the system will also reduce compliance costs, which represents a saving that can be passed on to employees. This was

seen at the BHP Billiton Pilbara mine a few years ago. Rather than the traditional union negotiated contract, BHP offered its employees individual workplace agreements. Through individual contracts and increased flexibility of employment hours, BHP could afford to offer their workers pay rises. That is a good thing.

The second element of the changes is the simplification of the current award system. Any employee who is under an award when the legislation is enacted can stay under that award and those conditions. Their employment cannot be terminated as a result of that decision. However, the complex noodle nation jumble of awards will ultimately be replaced by a single set of rules. This will lead to a reduction in the huge cost of understanding the current award system.

Senator Conroy—Did someone give you that one? Get your money back!

Senator FIFIELD—Senator Conroy delights in being reminded of that wonderful noodle nation graph. It is one of my favourite graphs of all time, and that illustration will continue coming into my mind often. Along with the mandating of a secret ballot before industrial action, this legislation will reduce the number of days lost to strikes. Despite opposition scaremongering, public holidays, penalty rates and workplace conditions can still be part of an agreement. They cannot be forcibly taken away from someone. Likewise, the minimum wage will still exist. The government will introduce a safety net for workers through the Australian Fair Pay Commission, which will set legislated minimum conditions.

The third element, and one of the most talked about changes, is the abolition of unfair dismissal laws for small and medium businesses with fewer than 100 employees. This policy is not new. In fact, it has been blocked by the Senate 41 times since 1996.

The current unfair dismissal laws have been estimated to cost business \$1.8 billion each year and effectively deny 80,000 jobs. In practice, the current act is a strong legislative barrier to employment, and we want to get rid of that for businesses with fewer than 100 people. We should not get confused between unlawful dismissals and unlawful termination. Discrimination on the basis of gender, race or even union membership will continue to be illegal.

The critical bill will provide the much-needed structural change within the economy. Extra flexibility in the employment market will grow the comparative advantage enjoyed by Australia in the world economy. If we eschew these changes because of fear, Australia will be denied this productive opportunity for improvement and to expand trade opportunities, and we will be further denied overseas investment in Australia. A flexible work force is a productive work force. People will no longer be priced out of the employment market. Ensuring that our workplace is flexible will significantly cut structural unemployment. A flexible workplace will also further encourage private enterprise, which is the strongest and most constant contributor to the country's economic prosperity. We need to encourage private business and investment.

Who will benefit from these structural changes? In the short term, there will be an increase in jobs available, especially in small businesses, as people move onto flexible workplace agreements. Salaries will rise and worker incentives will increase. Over the longer term, we will begin to see Australian companies win export contracts as our industries become more competitive. We will also begin to see unions accountable, which will be a great thing. No longer will unions have a monopoly over collective bargaining. They will have to compete and justify to every single member why they should be the bar-

gaining agent. Unions will have to ask their members before industrial action can occur—a radical concept. No longer will a union shop steward stop work without the support of members.

This government will not make Australians choose between flexibility and fairness. The Work Choices program upholds both prosperity and security for workers. These last few years have been prosperous for our nation. We are now profiting from the reforms of the last decade. Good decisions over the last decade have set us up for the economic prosperity we enjoy today. If we are to be a responsible government and parliament we need to ensure that we are making decisions today that will ensure that economic prosperity can continue over the years ahead.

Senator CARR (Victoria) (9.27 pm)—I would like to say a few words about this draconian piece of legislation to indicate my very strong opposition to it, which I believe I share with the vast majority of Australians. The Workplace Relations Amendment (Work Choices) Bill 2005 is a dishonest, deceitful piece of legislation, its very title suggesting that it is about workers' choices when it is all about bosses' choices. The bill ought to be retitled 'Bosses' choices' to give a more accurate reflection of its legislative intent. This legislation is really about stripping away Australian workers' choices, not about providing them with opportunities to defend their living standards and ensuring that they get a fair share of this nation's wealth.

The government claims it is seeking to simplify industrial relations, but the legislation runs to 680 pages and is full of vague language, imprecise terminologies and operational contradictions. It will be a great lawyers' banquet for the next generation if it stays on the statute book. It may well be that with the situation emerging after the next

election it will have to be repealed to save the country from the enormous costs that will be associated with the illegal interpretations that will feed the fortunes of the legal fraternity in this country.

This is not legislation that is designed to improve the lot of workers; it is about a reduction in living standards. It is not about providing freedom of choice; it is about breaking trade unionism. That is the aim of the Prime Minister, and I put it to the chamber that that has been the aim of the Prime Minister for his entire political career. He, of course, joins a long list of conservative politicians who have sought to achieve that objective. The government presents to this chamber the proposition that this is a brave new world and that we are embarking upon a new industrial relations framework, yet nothing could be further from the truth. What we are seeing is a repeat of the historic obsession that the conservative parties in this country have had with the destruction of working-class organisations.

I could go back to the 1890s where the catchery of conservative politicians was 'freedom of contract'. I could talk about the 1920s when Stanley Melbourne Bruce attacked maritime workers when he introduced that notorious legislation that became known as the dog-collar act and then, in the subsequent election in 1929, Prime Minister Bruce lost his seat in the federal parliament. There has been a long history associated with the conservative parties in this country seeking to essentially criminalise trade union activity. I take the view that the rights of Australian workers live on beyond the legislative attempts by governments of a conservative ilk to destroy trade unionism in this country.

Recently we have seen the Business Council of Australia try to come to the assistance of their political allies in the government by running an advertising campaign

supporting the government's very unpopular measures. They have been attempting to counter the effects of the Australian Council of Trade Union's campaign. Of course, we have seen pressure being mounted by the same political organisations for various tax cuts for business. It is almost as if it is quid pro quo. What we are seeing is a spurious campaign which effectively argues that, without further cuts to workers' wages and Australian workers' standards of living, Australia's international economic position will deteriorate. Perhaps if that model were accepted, and if we were to argue it through logically, we should apply it to the BCA's own members in relation to the way in which executive salaries, payouts and various golden handshakes operate.

In contrast, what we see when we look at the international circumstance is that the claim that the conservatives in this country make, that higher wage levels lead to increased unemployment, does not match the international evidence. If you look at the United States, for instance, you see that, over the past five years, the minimum wage has fallen by almost 12 per cent while jobs growth has risen by only 2.9 per cent. In the United Kingdom, over the last five years, the minimum hourly wage has more than doubled, from around £2.30 to £5.05, while jobs growth has significantly risen by 4.4 per cent. If we look at the Scandinavian countries, we see a growth in wages of 4.8 per cent in Denmark, three per cent in Iceland, 4.6 per cent in Norway and 6.3 per cent in Sweden.

All these countries have lower levels of unemployment than Australia's 5.2 per cent and are ranked as being more competitive in the World Economic Forum's global competitiveness ranking. With respect to the high unemployment countries of France and Germany, the European Commission's director-

general of economic and financial affairs states:

... there is no compelling evidence of any strong impact of wage compression on total employment.

In addition, when you examine the statistical definitions that are being used around unemployment in these countries you see that it is very conservative. In Germany, a person is unemployed if they work fewer than 15 hours; whereas, in Australia, if a person works more than one hour a week, they are deemed to be employed. So there is a massive contrast in terms of the hard economic data on these questions.

If we look at the Australian circumstances, we can take three indicators. Firstly, industrial disputes are running at a very low level. They have been doing so for some years and there is little sign—other than the government's very best efforts to stir up industrial turmoil—that that is likely to change. Industrial action has not been a threat to economic prosperity. Secondly, Australian productivity rates are increasing and they have been doing so regularly for the past decade or so. There is no productivity strike by Australian workers to match the pre-emptive strike on wages and conditions that has actually been orchestrated by this government.

Thirdly, we should look at what is happening with businesses themselves. Do we see any evidence that there has been a squeeze on profits as a result of wages growth? The evidence is in fact to the contrary. If we look at the share of GDP employed by wages and profits throughout the 1970s and the 1980s, we see that wages represented between 56 and 62 per cent of GDP. In the 1990s wages moved in a narrow band between 53 and 56 per cent of GDP. Wages as a percentage of GDP now stands at a historically low level of 53.2 per cent. If we contrast that with profits, we see a very different set of circumstances.

In the equivalent decades of the 1970s and the 1980s, profits averaged between 15 and 21 per cent of GDP. Throughout the 1990s, profits moved through to 21 to 24 per cent of GDP. What is the equivalent figure now? In the June quarter of 2005, profits as a percentage of GDP had risen to 27.4 per cent. That is the highest percentage we have seen since reliable records have been kept.

So I would ask the question: who is it that is doing it hard under the present arrangements that we see in this country? Where is the pressure coming from to crack down on wage rates and working conditions? It is certainly not on the basis of our national accounts. It is certainly not based on the empirical evidence. I say that it is based on an ideological jihad that is being presented by this government against the working people of this country. We have a Prime Minister who is committed to an ideological obsession to destroy trade unionism in Australia. That is what this legislation is really all about.

There is not enough time for any one of us on this side of the chamber to detail all the problems with this bill. There is not enough time to go through point by point the extraordinary flaws in this legislation. If we look at the pathetic list that was prepared in the minister's office and presented by Liberal senators on the Senate Community Affairs Legislation Committee inquiring into this legislation, we can see that there is no attempt to address the fundamental flaws in this bill. There is an attempt to provide a bit of window-dressing to suck up to certain sections of the National Party while they play their silly games in Queensland so they can appeal to their One Nation supporters, but there is no effort whatsoever to address the fundamental problems associated with this bill.

I will talk about a couple of things. I was able to participate in the Senate inquiry for one day, and it struck me just how extraordinarily clear the employers were about what they are trying to get out of this legislation. Let us take the question of the greenfield agreements which are contained in this legislation. It is one of those great Orwellian expressions that this government has become very fond of using. Under these greenfield agreements, there will be an opportunity for employers to negotiate with themselves as to what makes up a new agreement and there will be a unilateral determination of terms by employers themselves. Furthermore, if you go to work under one of these so-called agreements, you will have the award conditions stripped away and you will not be able to return to those award conditions at any future time.

In fact, there is a demand by sections of industry to extend the time for these so-called greenfields self agreements from one year to five years. If you think about the number of building sites around this country with an average duration of, say, 2½ years, it is unlikely under this provision that it would have any application on awards or agreements entered into under normal arrangements throughout the building industry in any of the major cities, because the proposition here is that an employer can run on the basis of take it or leave it. The government pretends that this is really all about choices. There is no choice in a situation in that context. The pretext of such an arrangement means that the employer determines the conditions under which people will work or they will not work at that job. There is an overriding provision to remove existing agreements. They can override notional agreements that would otherwise be preserved state award provisions. Remember, this is in the context of a no disadvantage test.

What you have is a new right to unilaterally terminate award conditions that will be used to deny unionists and workers any future access to benefits, to the security of an old award or a collective agreement. We had a conservative industrial relations practitioner and expert with a long association with business tell the Senate inquiry:

Businesses will be able to restructure their arrangements, regardless of what awards or agreements they currently have in place, set up a greenfields agreement for a new project or a new undertaking and therefore clear the way entirely of any previous award or agreement conditions.

What choice is in that for people who are unemployed, are seeking employment or have a situation where there is no choice but to take the job under those conditions or not take it at all?

We have a situation here where a new business can be determined by the employer and he can reclassify his situation to meet his own new conditions with no definition of what a new business is and no definition of what a greenfields site would look like. It is entirely down to the employer. Does that have to be a genuine new business? If you look at the transactional arrangements that are put in when businesses move between one entity or another, you will see there is no protection for the existing awards and arrangements that are in place.

The Master Builders Association is not simply content to adopt this policy of take it or leave it. In fact, they have a situation, as I said, where they are seeking to extend these arrangements from the provisions for 12 months in this bill to five years. As I was driving to the airport on my way up here this weekend, I looked up and there was a MBA sign on the side of the freeway in Melbourne—just outside Melbourne airport. The MBA sign had a very large slogan written on it. It said, ‘MBA—masters of our industry.’ It is a new sign and it reflects a new approach

that the MBA is taking because, under this legislation, they see themselves as being able to impose their will and be masters of the industry. In this environment we are supposed to believe that there will be a cooperative industrial spirit developed. Of course, if we take the legal counsel of the MBA, if you do not wish to be employed on any particular project and do not wish to take up those conditions, you can easily get another job. That is the approach that is being taken.

Of course, there is a broader context to all of these changes. We see in this arrangement that there is a whole range of provisions and, as has been stated clearly in the Senate inquiry, we will now be the only OECD country that seeks to penalise strikes but encourage lockouts. That is a provision of this legislation. If you look at this bill in the context of the broader legislative program of this government, you will see a situation whereby the industrial relations legislation is not the only weapon on which unscrupulous employers can rely. What we have here is a situation where the Welfare to Work provisions are being put through the parliament simultaneously. We see a situation where unemployed people, and persons who are on various social security benefits, are having their rights stripped away from them and are being obliged to enter into the labour market. We also see a situation with regard to the changes that are occurring in the immigration law whereby the government is seeking to bring into the country various persons on various visa entitlements which are very different from what we have come to understand in this country in recent years.

Let me give you some examples from the meat industry, for instance. Many employers who have embarked upon industrial campaigns employ a militancy, I might say, which has been aimed at reducing wages and conditions of members in the meat industry and have sought to use people who are refu-

gees or on migration visas as part of a tool in the industrial war against the AMIEU. We saw the struggle at O'Connor's abattoir in east Melbourne four years ago whereby that company locked out its workers and tried to replace them with an untrained, casual work force of guest labourers to direct the government's campaign at the time. I have no doubt whatsoever that this government was intimately involved with O'Connor's in that dispute.

The application of the regulations is designed, in part, to undermine job security and, at the same time, provide a reserve army of unemployed to allow employers to take up actions. We have also seen in the newspaper on a recent occasion another employer in the meat industry, V&V Walsh—a western Australian meat processor—who earlier this year sought to employ guest workers from Ghana and the Philippines. What we see there is a situation where the company has involved a large number of workers from these countries. The HR manager pointed out in a published article in the *Australian* that the beautiful thing about these new arrangements was that if they did not like what people were doing 'you just inform Immigration and they go home'.

So you have an industrial environment in which workers have their conditions undermined, and at the same time the employer is able to call upon groups of people who have no protections because they are on visas which are subject to removal at the drop of the employer's hat.

The workplace arrangements bill that we have before us is the centrepiece of the government's attack on the living standards of Australian workers. It is a flawed strategy. It promises to reduce wages when we need greater investment in skill levels in this country. It is said that in times of high unemployment some sections of the work force

will be able to do quite well in this environment. I acknowledge some people will do well—particularly those with very high levels of education and high skill levels and those already benefiting from the capacity to take advantage of the skill shortages. But the bargaining position of the great mass of workers—those who do not actually have those skill levels, such as those who push a broom or work as process workers in the meat industry—will be fundamentally undermined by the legislative provisions of this legislation.

For those people, I say that we must oppose this bill. So I stand with the 500,000 Australians who a fortnight ago demonstrated their public opposition to the bill and with the millions more who were with them in spirit. This is a bill that ought to be rejected by senators. I believe this is a bill that will ultimately bring this government down. That is not the reason to oppose it. The reason to oppose it is that the bill is fundamentally wrong. You will find in due course that a majority of Australians come to that conclusion and, like Lord Stanley Bruce before you, you will discover the meaning of that.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Barnett)—Order! It being almost 9.50 pm, I propose the question:

That the Senate do now adjourn.

Abortion

Senator NASH (New South Wales) (9.47 pm)—I rise tonight to talk about an issue that has been of particular note of late. In 1996, this parliament allowed an amendment to the Therapeutic Goods Act 1989. That amendment made the minister for health ultimately responsible for decisions in relation to the importation, trial, registration and listing of RU486 and other abortifacients rather than the Therapeutic Goods Administration, the statutory body usually responsible for the

approval of medicines in Australia. This was on the grounds that these drugs amounted to a special category of drug requiring an additional layer of public scrutiny.

That debate occurred some 10 years ago over concerns about the safety of the drug, in the context of what was known about RU486 at that time. It is interesting to note that in 1996 RU486 was approved for use in less than a dozen countries. In 2006, we are some 10 years on and there is much more data available. RU486 is now approved in some 33 countries, including the United States, New Zealand, France, Israel, Sweden, Russia, Turkey, Tunisia and Britain, but not Australia. I remind the Senate that the practice of abortion does legally occur in Australia and is regulated through state and territory law. I respect the right of individuals to hold their views on abortion—be it pro-life or pro-choice—but abortion does occur in this country.

The Australian community expects that medicines and medical devices in the marketplace to be safe, of high quality and of a standard at least equal to that in comparable countries. Responsibility for that falls on the Therapeutic Goods Administration. The TGA provides a national framework for the regulation of therapeutic goods in Australia to ensure the quality, safety and efficacy of medicines, and to ensure the quality, safety and performance of medical devices. According to the TGA's 2004-05 annual report, 49,343 items were listed on the Australian register of therapeutic goods. In fact, during 2004-05 some 11,455 applications were approved by the TGA for inclusion on the register. These included medicines such as the prescription drugs that a doctor prescribes and are dispensed by a pharmacist in the local chemist as well as the sorts of non-prescription medicines available at the chemist or supermarket.

I believe the Therapeutic Goods Administration has the knowledge and expertise to conduct the evaluation of RU486 for quality, safety and efficacy, and I believe that this parliament does not. Let us allow the TGA to evaluate RU486 in the same impartial manner that it has done with the almost 50,000 therapeutic goods that have already come before it. Let us take the politics out of the issue and put the science back. I believe the TGA has the necessary integrity and professional competence to assess whether or not RU486 is suitable for use in Australia.

It is always preferable to avoid surgery wherever possible. There are inherent risks with surgery. It is invasive and traumatic. RU486 is an alternative to surgical procedure. Some women in Australia, for a whole variety of reasons, may require an abortion. It is not a decision that is taken lightly. The TGA would take into account the efficacy of the treatment for all women, not just women in rural and regional areas. These women should be able to choose between surgical and medical intervention if the medical alternative is deemed to be appropriate. I believe RU486 would give women that choice. If RU486 were to be approved by the TGA for use in Australia, it would be irresponsible of us as legislators not to give women that choice.

There is a level of misinformation surrounding the possible introduction of RU486, such as that the treatment will be available over the counter from a chemist. That is just plain wrong. If the TGA were to allow RU486 to become available in this country, it would be reasonable to assume that it would be classified as a schedule 4 drug or higher, which can only be supplied by prescription from a registered doctor, in the same way other schedule 4 drugs—such as penicillin, the contraceptive pill and the hormonal treatment for breast cancer, tamoxifen—or drugs of a higher classification

are made available. I want to make it clear: RU486 would not be a pharmacy medicine or a pharmacy only medicine. Women will not be able to walk up to the chemist and buy it. They would only be able to access the drug if it were prescribed to them and them alone.

I am aware of reports following several deaths overseas linked to RU486 and that the United States Food and Drug Administration ordered new labelling and medication guides reflecting the higher risks associated with RU486. I would like to draw to the Senate's attention an update put out by the US Food and Drug Administration on 4 November. This update provides additional information about the four women referred to in the FDA's alert of 19 July 2005, who died of sepsis following medical abortions in the United States. On 4 November, the FDA posted this update to its website:

Since the July alert, FDA has learned that all four women were infected with the same type of bacteria. In addition, FDA has tested batches of Mifeprex and misoprostol and has not found any contamination with this type of bacteria.

A range of key international health sector organisations, including the World Health Organisation, the International Federation of Obstetrics and Gynaecology, the UK Royal College of Obstetricians and Gynaecologists and the American College of Obstetricians and Gynaecologists, now support the use of medical abortion using RU486 as a method for inducing termination of pregnancy. These international bodies have now been joined by the Australian Medical Association and the Royal Australian and New Zealand College of Obstetricians and Gynaecologists. In the current debate, groups such as the AMA have argued that there is now much greater understanding of the level of risk associated with RU486 as a result of clinical trials and widespread use in other countries. For example,

according to AMA President Dr Mukesh Haikerwal, the 1996 restrictions were:

... fairly early in the evolution of the drug. Now, nearly 10 years later, there's a million women years worth of trials on this now and people have used it successfully with very minimal problems.

There are three very important points to remember that I will conclude on: one, there is no one person in this parliament who is qualified to make a clinical and/or therapeutic judgment on this drug; two, as responsible legislators we should take the steps necessary to repeal the Harradine amendment and allow the Therapeutic Goods Administration to get on and do the job that it was designed to do; and, three, drugs come with a warning label. If RU486 could be given a label now, that label should read, 'Do not mix this medication with politics.'

White Ribbon Day

Senator LUNDY (Australian Capital Territory) (9.56 pm)—Last Friday, 25 November, was White Ribbon Day, the International Day for the Elimination of Violence Against Women. On Friday, you would have seen people everywhere wearing white ribbons like the one I am wearing this evening to symbolise their commitment to not commit, condone or remain silent about violence against women and children. I am proud that the ACT branch of the Australian Labor Party has become an official project partner with UNIFEM for White Ribbon Day. This was an initiative of the status of women policy committee of the ACT branch, and I commend their efforts.

This year there has been a national promotion strategy to encourage young men, businessmen and politicians to promote healthy, non-violent relationships and healthy families in Australia. A national leadership group of high profile men and women were recruited to manage the 2005 campaign. They included: the NRL game liaison manager; the

Deputy Commissioner of the Victorian Police; the commander of the Australian Federal Police; two members of the ACT Legislative Assembly; an ACT magistrate; media and advertising representatives; the senior vice president of the ALP, Warren Mundine; and other community leaders. The theme this year is: 'Violence against women. Do nothing and you may as well lend a hand.'

Over the years, and in every country, gender based violence has been a means of maintaining the oppression of women to include control of their bodies, labour and productive capacities and to exclude women from public and economic power. Throughout the 1970s, feminists began to raise the issue of violence against women as part of their push to increase the participation of women in the wider political and economic system. In 1990, the National Committee on Violence Against Women was established in Australia and in 1992 the national strategy on violence against women was released. This national strategy included initiatives in service provision and dealt with issues to do with the law, racism, Indigenous Australians, sexual assault and education, among other things. These were major achievements and commitments of the Australian Labor Party government, sadly undermined or abandoned progressively by the coalition government since 1996.

Who can forget this government's cancellation of the 2003 pre-Christmas campaign against domestic violence? Finally—six months after the due date and in the context of its 2004 election campaign—the Howard government belatedly released its revised campaign against domestic violence. The delay meant lost opportunities for community education over the Christmas holiday period, as well as \$1.6 million in cancellation fees. And of course there was the 'borrowing' of the anti domestic violence money by the government for what it considered a far

more important project—its pathetic antiterrorist fridge magnet campaign. Unfortunately the government chose to replace the educative and preventative focus of the original No Respect, No Relationship campaign with a crisis management approach, and there are ongoing concerns that well-publicised cases which result in no convictions may mean that women continue to be deterred from reporting crimes of violence.

The original 2003 campaign had a segment called Coaching Boys into Men, which could have then been used by sports coaches, clubs and schools to encourage responsible behaviour by teams. The original campaign had a wider targeting approach to include specific issues and specific communities—for example, young Indigenous communities. So the delay caused by the direct intervention of ministers uncomfortable with, for example, the concept that verbal abuse is a form of violence or the concept that the focus of the advertisements was on male perpetrators has meant not only a high monetary cost but also lost opportunities and human costs.

It is important, I think, to look at the research concerning victims and perpetrators of domestic violence. The New South Wales Bureau of Crime Statistics and Research has just released research on domestic violence trends and patterns in New South Wales. This showed that 71 per cent of the victims of domestic assault were female and by far the majority of offenders—80.4 per cent—were male. This finding reinforces what we know: that a large proportion of victims of domestic violence are women who are abused by their male partners. However, this research did indicate that some 28.9 per cent of victims of domestic assault recorded by police in New South Wales are male. This figure of 28.9 per cent is higher than is commonly noted in the literature and is thought to reflect the broader definition of

domestic violence adopted in the New South Wales legislation than is used in much of the international literature on domestic violence. Typically, much of the overseas research on domestic violence refers only to violence between parties who have, or have had, an intimate relationship. The majority of studies of domestic violence, however, find that generally women are subjected to more frequent and severe abuse by their partners than are men.

We really cannot hide from the reality that by far the majority of the perpetrators of violence are male. Australian Bureau of Statistics figures on recorded crime for 2002 show that 54.6 per cent of assault victims generally were male and 45.4 per cent were female. Of the males who were assaulted, 82.4 per cent were assaulted by males only. Of the females who were assaulted, 70.4 per cent were assaulted by males only. Therefore it is totally reasonable to target males, especially in any anti-violence education campaigns like, for example, those devised in the original 2003 campaign for the Partnerships Against Domestic Violence campaigns.

This government, of course, does not want to know. As we have seen so many times—the latest example being the punitive workplace legislation, the so-called Work Choices legislation—this government is uncaring towards the least powerful members of the Australian community and it is particularly antagonistic towards the rights of women. Now the latest revelation has surfaced, one that the government has suppressed for almost two years: the research that shows the inadequacies in support services and crisis accommodation for domestic violence victims.

White Ribbon Day is not just about domestic violence. In the United Nations Declaration on the Elimination of Violence Against Women, adopted in 1994, violence

against women is defined as any act of gender based violence that results in, or is likely to result in, 'physical, sexual or psychological harm or suffering to women', and this includes 'threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life'. In 1999 the United Nations General Assembly designated 25 November as the International Day for the Elimination of Violence against Women and invited governments, international organisations and non-government organisations to organise activities to raise public awareness. The date, 25 November, was chosen to mark the brutal assassination in 1961 of three political activists in the Dominican Republic, the Mirabal sisters.

In Australia each year, Reclaim the Night activities are organised to protest against the fear and repression that many women still face. In the ACT this year, the Reclaim the Night march took place in the city centre on Friday night, 28 October. I was not able to make it to Reclaim the Night this year but I understand from participants that it was very well attended. I note too the strong feeling that has always governed those who participated.

Mr Peter Orbansen

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.04 pm)—Earlier this month Australia lost another of its unsung heroes when Peter Orbansen died at Davis, one of Australia's Antarctic stations. Our hearts go out to all those people mourning his loss, especially his family and friends and those people currently at our Antarctic stations. Peter Orbansen—'Orby' to his friends—had spent nearly one-third of his adult life in Antarctica. I did not know him but Mark Reynolds, who spent a year working with him in 1993, and other friends and work colleagues say that he was an ex-

ceptional person, loved by all who knew him.

Last week, a very beautiful and moving memorial service was held for Orby on Anchorage Island, just offshore, across the sea ice, at Davis. It was a blue sky day with just a hint of wind and everyone present was spellbound by the spectacular location. Another cross was erected as a symbol of a life passed at Davis. An impressive rustic oregon timber cross was constructed by Orby's fellow expeditioners and a plaque commemorates his many trips to Antarctica. That plaque reads:

In memory of Peter Orbansen 'Orby', 1962-2005, a gentleman carpenter, Casey 1988 and 1990, Macquarie 1991, Mawson 1993 and 2001-02, Davis 1997 and 2001 and 2004 and 2005.

As the island is situated at the front of Davis station, the memorial forms a haunting vista visible from many station windows.

Stations at Casey, Mawson and Macquarie Island, and those onboard the *Aurora Australis* and at the Australian Antarctic Division headquarters at Kingston, Tasmania, all held similar services. More services are scheduled this week on the Gold Coast in Queensland and in Melbourne. Condolences messages have been received from many of the countries with Antarctic programs, including South Africa, the United Kingdom, the United States, Argentina, Peru, France, Japan, Germany, Spain, Bulgaria, India and Poland.

Orby first journeyed South in October 1987 as a member of the Australian construction services crew. He spent the 1988 winter fitting out the Casey red shed and was amongst the last group of people to occupy the old Casey station. He returned to Casey in 1989 and spent the 1990 winter fitting out the workshop, and completed the science building to lock-up stage in the summer of 1990-91. It was during this second winter

trip that his habit of two tea bags per cup of tea was first queried. Orby's response was: 'It's all right for you but I'm too busy to sit around and wait.'

In 1991-92 he spent the summer at Macquarie Island, where he worked on extending the biology lab and recladding the meteorological office. Most people wore overalls with their name on the back. That summer, Orby wore overalls with one word written on the back: 'Me'.

In 1993 he spent the winter at Mawson as the maintenance carpenter. It was during this expedition that he would become known as 'Kapitan Orbansen'. This title was bestowed on him after the all-terrain vehicle he was driving broke through the sea ice. He was forced to pilot his blue Hagglund, floating in its own hole in the sea ice—all captured on video in full colour, much to the amusement of the entire station in the club that night, and in the many years ahead. Another moment of note during 1993 was when he danced to *Nutbush City Limits* in the old club wearing rollerskates. In the 1993 yearbook, he stated that he enjoyed 'good champagne and the company of positive people'. Orby listed his favourite pastimes as 'hobbying, making sawdust and dreaming'. He said, 'It costs nothing to dream.'

In 1997 he spent the winter at Davis. The highlight of the season was when Orby rolled the small tip truck. He alighted from the vehicle and with true Orby humour said, 'It wasn't me driving; it must have been someone who looked like me.' He spent another winter at Davis, in 2001, this time as the building services supervisor. One of the major tasks was painting the bedrooms in the accommodation building. In his June report he wrote, 'At this time we have 57.5 per cent of the painting completed and by the middle of July we should have completed 68.9 per cent.'

In the summer of 2001-02, Orby worked on the foundations for the wind turbines at Mawson and completed the extension to the Cosray science building. Orby continued his habit of referring to Antarctic field training as: 'A complete waste of time; I've got work to do.' In 2004 he again wintered at Davis as the building services supervisor. His most notable achievement was leading a small team in completing the foundations for the new living quarters building. This year, Orby journeyed south to Davis again as the building services supervisor, this time to install a new summer accommodation building.

Orby was known for his practical jokes and his laconic sense of humour, so much so, in fact, that some people initially thought that reports of his passing were but another Orby joke. He was a stand-out performer when it came to completing whatever tasks he took on. If you ever had to go out into the Antarctic wilderness you would want Orby by your side.

One of his most notable traits was that he never spoke a bad word about anybody. If he did not like someone he would simply say, 'That bloke has some strange ideas.' Australia's Antarctic Division is truly blessed to be able to attract some of the most remarkable, talented and considerate people to serve in Antarctica. It may be a cliché, but Orby really was amongst the best of the best. Antarctica is a very special place and even at times like this its beauty does not fade.

In death as in life, Peter Orbansen had a huge impact on everyone who knew him. He will be remembered for the helpful, warm, witty, friendly, clever, strong, able, talented and resourceful person that he was. His many positive contributions are too numerous to detail here tonight. Orby was the team player, the craftsman, the practical joker, the professional, but, most of all, a mate. Everyone who shared their lives with Orby, in both

Australia and Antarctica, came away better for the experience. Nothing will ever take that away. Peter 'Orby' Orbansen will always reside in the hearts and minds of the people who respected and cared for him—this 'truly excellent expeditioner'. I will leave the last words to Orby: 'What ya think ya doing? Wipe your tears away. Absolutely ludicrous. I've just gone to check my washing.'

Asian Forum of Parliamentarians on Population and Development

Senator MOORE (Queensland) (10.12 pm)—I want to acknowledge the three strong women's speeches we have heard in tonight's adjournment debate. They were all quite inspirational and quite different.

Tonight I want to make a few comments about the honour I had on 12 November to go to the eighth general assembly of the Asian Forum of Parliamentarians on Population and Development, known as the AFPPD. I attended that conference with Mr John Hyde, a state parliamentarian from Western Australia, and Ms Christina Richards, the executive officer of our own parliamentary group for population and development. This particular conference was held with great ceremony, as many Indonesian conferences are, and it was opened by the President of Indonesia, Mr Susilo Bambang Yudhoyono, at Parliament House in Jakarta. There was a great deal of welcome and pomp and ceremony for about 120 members of parliament from across the Asia-Pacific region, representing over 20 parliamentary committees.

This was the first major conference of the population and development group held after the UN World Summit. We have talked in this place before about the importance of that world summit held in September 2005. At that summit the countries of the world committed to:

... achieve universal access to reproductive health by 2015, as set out at the International Conference on Population and Development, integrating this goal in strategies to attain the international development goals, including those contained in the Millennium Declaration aiming at improving maternal health, reducing child mortality, promoting gender equality, combating HIV AIDS and eradicating poverty.

We have talked about these incredibly important goals on numerous occasions in this place. We were able to talk with Dr Thoraya Obaid, the UNFPA Executive Director, who visited Australia last year and met with many people in this place. She was at the eighth general assembly. What she said about what was stated at the UN summit was:

Five years after the Millennium Declaration, the world has reaffirmed the need to keep gender equality, HIV/AIDS, and reproductive health at the top of its agenda. This outcome is a success for millions of women, men and young people all over the world, whose appeals have been heard ... We must now focus our energy on fulfilling the commitments made by world leaders.

Indeed, that focus on keeping our commitment was what this eighth international conference was all about. Over two days we were able to hear reports from all the parliamentary committees that attended and listen to keynote addresses on the issues, which focused on gender equity, the representation of women in parliaments across our world, maternal and child health, and the major battle with HIV-AIDS—and later this week we will be able to talk about that as we acknowledge World AIDS Day on 1 December.

In terms of the pride, the commitment and the genuine efforts being made by countries across the Asia-Pacific region, it was an honour to listen to the people representing their countries. It was also quite an honour to represent the Australian commitment, in terms of what the Prime Minister was able to state at the World Summit of the UN and also subsequent statements that have been made

about our commitment to eradicating world poverty, our commitment to addressing the Millennium Development Goals and the extraordinary effort made by the Australian community following the horrors of the tsunami. By having this particular conference in Indonesia, we were able to meet with people who had first-hand knowledge of what it was like to survive such a horrific natural disaster and to work so strongly on the redevelopment efforts that are taking place. The role that Australia played, not just at the government level but through the amazing charity that was shown by Australians across our community, can make us all proud. That can work well for us as we move forward on our commitment to look at the issues of world poverty and health.

In the last week our Prime Minister has been able to acknowledge the demand for help from Pakistan. We were able to hear the Prime Minister make declarations that there was going to be an increased aid effort for that country. At the conference in Indonesia we heard heartbreaking reports from the parliamentary representative from Pakistan, who was a parliamentarian from the area of Kashmir. As she was making her contribution and describing what was going on in her homeland—the families that she knew and the kinds of responsibilities that she had as a politician representing that area—tears ran down her face. It was a time when we could feel the solidarity of the countries of our region and acknowledge that something horrific had happened, but also acknowledge that by working together, by using the resources that we can share, we can genuinely make a difference. That is the message from the Asian Forum of Parliamentarians on Population and Development: we can make a difference. It is a message of hope.

Over that two-day assembly, there were elections for the executive board of the AFPPD. At that time, the member for Charl-

ton in the lower house, Ms Kelly Hoare, who has been the women's officer at the executive board level for the last three years, stood down from that position. I want to acknowledge the extraordinary work that Kelly Hoare has done for Australia's position as a country in this area and also across the board on the issues of health and women's equity. I was able to watch Kelly Hoare last year when we had the honour of hosting the women's conference for this particular group in Canberra—it was held in the main committee room. The warmth and energy that Kelly brought to her task and the special relationship she was able to bring to representatives from other countries did us all proud. I want to acknowledge Ms Hoare's work and state that she has been able to lay a very strong foundation for the future efforts of Australian representatives in those positions.

In terms of where we go next, we have spoken here before about having a focus on where we go and how we can work together. I express to people in this place and also to those in the various parliaments across our country that we have an opportunity, through local commitment, to have education awareness sessions and to make real change at our local levels, which is the model for the UN: you work locally to achieve the change. There are things that we can do here in our country that can be reflected overseas.

During the same trip, I was given the opportunity to attend the second National Prayer Breakfast of the Indonesian parliament. I think it was because I happened to be in the country at the time, but it was a genuine honour to attend this. I attend the prayer breakfasts in this place quite regularly and it was a special pleasure to have the opportunity to attend the one in Indonesia, with Senator Grant Chapman, who was there giving the reflection from Australia. The invitation that came from the Indonesian organising group said:

We have the honor to host this very special event that will take place in our Parliament. This will become a moment for prayer and reflection among our multicultural society where respect and care for others regardless of differences in faith, ethnic and political affiliations is an ultimate need particularly in our context.

I think that truly says it all. The two organising people, the Hon. Constant Ponggawa MP and Ria Aritonang, a former MP and secretary of the Indonesian Prayer Breakfast, went on to say:

We hope this gathering of prayer and reflection may remind us of the need to be humble and honest before God, that despite our privileges as legislators and leaders we are not beyond weakness and failures.

I do not think anyone could have a better message than that.

Sitting through the four hours of the Indonesian Prayer Breakfast, with the wonderful musical tributes that went on, the constant theme that came through was that there was a need for unity and a need for people, despite their differences. We had reflections not only from Senator Chapman, representing Australia, but from leaders of other ethnic and religious groups in Indonesia. They acknowledged that through their differences comes strength. That message is also one that we can take forward with hope.

At this stage I want to acknowledge the great support given by the wonderful people at our embassy in Indonesia, in particular Dr Justin Lee and Mr Stephen Barraclough, who sat through the breakfast with us and were able to give us the necessary interpretations, not just of the very long reflections and prayers but also of the wonderful music that we listened to as well. Without their help we would not have been able to achieve quite so much understanding on the day. It was a valuable experience and one which I will treasure. I hope that the messages both at the international conference and at the prayer

breakfast can work with all of us so that we can move forward and achieve real difference.

Senate adjourned at 10.22 pm

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

A New Tax System (Goods and Services Tax) Act—GST-free Supply (Health Goods) Determination 2005 [F2005L03536]*.

Aged Care Act—

Approval of Care Recipients Amendment Principles 2005 (No. 2) [F2005L03477]*.

Flexible Care Subsidy Amendment Principles 2005 (No. 2) [F2005L03481]*.

Air Services Act—Air Services Regulations—Instruments Nos—

AERU-05-41—Flight Information Regions [F2005L03633]*.

AERU-05-42—Class A Airspace [F2005L03636]*.

AERU-05-43—Class C Airspace [F2005L03637]*.

AERU-05-44—Class C Control Zones [F2005L03638]*.

AERU-05-45—Class D Airspace [F2005L03639]*.

AERU-05-46—Class D Control Zones [F2005L03640]*.

AERU-05-47—Class E Airspace [F2005L03641]*.

AERU-05-48—Class G Airspace [F2005L03642]*.

AERU-05-49—General Aviation Aerodrome Procedures (GAAP) Control Zones [F2005L03643]*.

- AERU-05-53—Controlled Aerodromes [F2005L03644]*.
- AERU-05-55—Controlled Aerodromes and Airspace [F2005L03705]*.
- Appropriation Act (No. 1) 2005-2006—Advance to the Finance Minister—Determination No. 1 of 2005-2006* [F2005L03479]*.
- Australian Bureau of Statistics Act—Proposals Nos—
- 11 of 2005—Business Characteristics Survey.
- 12 of 2005—Time Use Survey.
- Australian Hearing Services Act—Declared Hearing Services Amendment Determination 2005 (No. 1) [F2005L03685]*.
- Australian Prudential Regulation Authority Act—Non-Confidentiality Determination No. 11 of 2005—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 (2005) [F2005L03614]*.
- Australian Wine and Brandy Corporation Act—Select Legislative Instrument 2005 No. 245—Australian Wine and Brandy Corporation Amendment Regulations 2005 (No. 2) [F2005L03397]*.
- Banking Act—
- Banking (Prudential Standards) Determination No. 3 of 2005—Prudential Requirements for Providers of Purchased Payment Facilities [F2005L03624]*.
- Consent to use restricted expressions—Class consent—providers of purchased payment facilities [F2005L03623]*.
- Determination of restricted expressions—‘Purchased payment facility provider’ and ‘PPF provider’ [F2005L03622]*.
- Broadcasting Services Act—Licence Area Plan for Oatlands Radio, dated November 2005 [F2005L03635]*.
- Civil Aviation Act—
- Civil Aviation Regulations—Instruments Nos—
- CASA 429/05—Permission and direction—helicopter special operations [F2005L03514]*.
- CASA 435/05—Instructions—GLS approach procedures [F2005L03531]*.
- CASA 436/05—Permission and direction—helicopter special operations [F2005L03517]*.
- CASA 443/05—Designation of non-controlled aerodromes [F2005L03694]*.
- CASA 445/05—Approval under subregulation 207(2) [F2005L03484]*.
- CASA EX51/05—Exemption, permit, permission and directions—bungy jumping [F2005L03525]*.
- Civil Aviation Safety Regulations—Airworthiness Directives—Part—
- 105—
- AD/A320/150—Flight Manual Amendment—Fuel Leak Procedure [F2005L03538]*.
- AD/A320/185—Centre Tank Fuel Pump Control [F2005L03539]*.
- AD/A320/186—Pilot and Co-pilot Powered Seats [F2005L03540]*.
- AD/A330/55—Pilot and Co-pilot Powered Seats [F2005L03541]*.
- AD/B727/151 Amdt 1—Engine Forward Support Fitting [F2005L03543]*.
- AD/B727/198—Lower Lobe Frames of Body Section 43 [F2005L03544]*.
- AD/B727/199—AFM Amendment—Fuel Pump Circuit Breaker [F2005L03620]*.

AD/B737/10 Amdt 2—Aft Lower
Cargo Doorway Frame
[F2005L03545]*.

AD/B737/252—Leading Edge
Slat Track Fittings
[F2005L03546]*.

AD/B737/253—Main Landing
Gear Components
[F2005L03550]*.

AD/B737/254—In-Flight Enter-
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ST00516AT [F2005L03551]*.

AD/B737/255—Oxygen Masks
AFM Amendment
[F2005L03552]*.

AD/B737/256—Hydraulic Sys-
tem “B” Abex Pump Motor
[F2005L03553]*.

AD/B737/257—Bendix Main
Wheel [F2005L03554]*.

AD/B737/258—Forward Engine
Mount Support Fitting
[F2005L03555]*.

AD/B737/259—Fail-Safe Straps
of the Nose Cowl Engine Inlet At-
tach Ring [F2005L03556]*.

AD/B737/260—Wing Front and
Rear Spars Upper and Lower
Chords [F2005L03561]*.

AD/B737/261—Main Deck Floor
Beams [F2005L03564]*.

AD/B737/262—Wing Outboard
Flap Inboard Flap Track
[F2005L03567]*.

AD/B737/263—Krueger Flap Ac-
tuator Support Fittings
[F2005L03568]*.

AD/B737/264—Horizontal Stabi-
liser Centre Section Front Spar
[F2005L03570]*.

AD/B737/265—Emergency Floor
Path Lighting System
[F2005L03571]*.

AD/B737/266—Upper and Lower
Skins of the Fuselage Lap Joint
[F2005L03572]*.

AD/B737/267—Aft Engine
Mount Secondary Support
[F2005L03573]*.

AD/B737/268—Floor Beams and
Pressure Web Transverse Beams
above the Main Wheel Well
[F2005L03574]*.

AD/B737/269—Engine Mount
Cone Bolt Nuts [F2005L03575]*.

AD/B767/59 Amdt 1—Spoiler
Rub Strip [F2005L03576]*.

AD/B767/138 Amdt 3—Nacelle
Strut Midspar Fitting
[F2005L03577]*.

AD/B767/167 Amdt 3—
Centre/Auxiliary Fuel Tank Over-
ride/Jettison Fuel Pumps
[F2005L03578]*.

AD/B767/201 Amdt 1—Body
Station 955 Fail-Safe Straps
[F2005L03579]*.

AD/BAe 146/118—Left Control
Cable Duct at Frame 12 and Toilet
Bulkhead Structure
[F2005L03580]*.

AD/BEA 121/8 Amdt 4—Rudder
Control Torque Tubes
[F2005L03581]*.

AD/CESSNA 400/113—Avionics
Bus Circuit Breaker Switch
[F2005L03582]*.

AD/DHC-8/100 Amdt 2—
Fluorescent Lighting System
[F2005L03586]*.

AD/DHC-8/104—Elevator Trim
and Gust Lock Chain Failure
[F2005L03587]*.

AD/DO 328/1—Fuel Tank Safety
Requirements [F2005L03588]*.

AD/DO 328/2—Alternator Power
Cables [F2005L03589]*.

AD/DO 328/3—RVSM Opera-
tions [F2005L03600]*.

AD/DO 328/4—De-icing/Anti-
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- AD/EMB-120/33 Amdt 1—
Aileron and Elevator Rotary Vari-
able Inductive Transducer Bell-
crank Assemblies
[F2005L03590]*.
- AD/F100/73—Wing-to-Fuselage
Fairings [F2005L03591]*.
- AD/F406/15—Aileron Bearing
Corrosion [F2005L03592]*.
- AD/GENERAL/63 Amdt 1—
Flammability Requirements—
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Hand Held Portable Fire Exting-
uishers [F2005L03594]*.
- AD/PA-28/97—AN894-6-4 Bush-
ing Screw Thread Expanders
[F2005L03595]*.
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- AD/AL 250/88—Third-stage Tur-
bine Wheel Seal Joint
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Shaft [F2005L03583]*.
- AD/CON/84 Amdt 2—Starter
Adapter Assembly
[F2005L03584]*.
- AD/CT7/12—Stage 2 Turbine Aft
Cooling Plate [F2005L03585]*.
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- AD/PHZL/23 Amdt 5—Blade
shank—Inspection and Modifica-
tion [F2005L03596]*.
- AD/PROP/6—“Fastprop” Propel-
ler De-Icers [F2005L03597]*.
- Select Legislative Instrument 2005 No.
258—Civil Aviation Safety Amendment
Regulations 2005 (No. 1)
[F2005L03421]*.
- Class Rulings CR 2005/94-CR 2005/104.
- Classification (Publications, Films and
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Instrument 2005 No. 264—Classification
(Publications, Films and Computer Games)
Regulations 2005 [F2005L03681]*.
- Commonwealth Authorities and Compa-
nies Act—Notices under paragraphs—
45(1)(a) and (c)—Participation in for-
mation and membership of CRC CARE
Pty Ltd.
45(1)(e)—Variation in membership
of—
Film Australia Limited.
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Limited.
- Corporations Act—ASIC Class Orders—
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[CO 05/737] [F2005L03616]*.
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111 of 2005 [F2005L03627]*.
112 of 2005 [F2005L03628]*.
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Nos—
248—Customs Amendment Regula-
tions 2005 (No. 7) [F2005L03288]*.
249—Customs (Prohibited Imports)
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4) [F2005L03255]*.
250—Customs (Prohibited Imports)
Amendment Regulations 2005 (No.
5) [F2005L03395]*.
265—Customs Amendment Regula-
tions 2005 (No. 8) [F2005L03528]*.
- Tariff Concession Orders—
0506269 [F2005L03557]*.
0506272 [F2005L03501]*.
0508304 [F2005L03558]*.

0508318 [F2005L03502]*.
 0510005 [F2005L03503]*.
 0510513 [F2005L03504]*.
 0510518 [F2005L03505]*.
 0510519 [F2005L03506]*.
 0510584 [F2005L03508]*.
 0510585 [F2005L03509]*.
 0510586 [F2005L03510]*.
 0510587 [F2005L03512]*.
 0510722 [F2005L03490]*.
 0510931 [F2005L03650]*.
 0510933 [F2005L03559]*.
 0510934 [F2005L03560]*.
 0510942 [F2005L03653]*.
 0511034 [F2005L03562]*.
 0511035 [F2005L03447]*.
 0511036 [F2005L03491]*.
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 0511113 [F2005L03499]*.
 0511114 [F2005L03448]*.
 0511230 [F2005L03563]*.
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 0511531 [F2005L03661]*.
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Customs Legislation Amendment (Application of International Trade Modernisation and Other Measures) Act—CEO Specification No. 3 of 2005 [F2005L03629]*.

Defence Act—Determinations under section—

58B—Defence Determinations—

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2005/46—Attendance allowance.

2005/47—Hardship allowance—amendment.

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58H—Defence Force Remuneration Tribunal Determination No. 12 of 2005—Specialist Salary Structure—Legal Officers—Amendment.

Defence Force (Home Loans Assistance) Act—Declaration of Warlike Service—

(Operation PALATE), dated 31 October 2005 [F2005L03520]*.

(Operation PALATE II), dated 31 October 2005 [F2005L03516]*.

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- Federal Magistrates Act—Select Legislative Instrument 2005 No. 263—Federal Magistrates Court Amendment Rules 2005 (No. 1) [F2005L03610]*.
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- Fisheries Management Act—Southern Squid Jig Fishery Management Plan 2005—Directions Nos—
SSJFDIR 1—Bycatch limits [F2005L03358]*.
SSJFDIR 2—Prohibition on shark finning [F2005L03364]*.
- Food Standards Australia New Zealand Act—Australia New Zealand Food Standards Code—
Amendment No. 82—2005 [F2005L03463]*.
Amendment No. 83—2005 [F2005L03673]*.
- Great Barrier Reef Marine Park Act—
Cairns Area Plan of Management Amendment 2005 (No. 1) [F2005L03457]*.
Select Legislative Instrument 2005 No. 252—Great Barrier Reef Marine Park Amendment Regulations 2005 (No. 2) [F2005L03455]*.
- Whitsundays Plan of Management Amendment 2005 (No. 1) [F2005L03456]*.
- Hazardous Waste (Regulation of Exports and Imports) Act—Select Legislative Instrument 2005 No. 253—Hazardous Waste (Regulation of Exports and Imports) Amendment Regulations 2005 (No. 2) [F2005L03452]*.
- Income Tax Assessment Act 1936*—Select Legislative Instrument 2005 No. 262—Income Tax Amendment Regulations 2005 (No. 7) [F2005L03450]*.
- Industrial Chemicals (Notification and Assessment) Act—Select Legislative Instrument 2005 No. 257—Industrial Chemicals (Notification and Assessment) Amendment Regulations 2005 (No. 2) [F2005L03470]*.
- Insurance Act—Insurance (Exemption) Determination No. 2 of 2005—Audit requirements relating to certain yearly statutory accounts under GRS 170.1 [F2005L03602]*.
- Lands Acquisition Act—Statements describing property acquired by agreement for specified public purposes under sections—
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125.
- Legislative Instruments Act—Select Legislative Instrument 2005 No. 266—Legislative Instruments Amendment Regulations 2005 (No. 4) [F2005L03682]*.
- Military Rehabilitation and Compensation Act—Military Rehabilitation and Compensation (Warlike Service) Determination 2005 [F2005L03530]*.
- Motor Vehicle Standards Act—Vehicle Standard (Australian Design Rule 83/00—External Noise) 2005 [F2005L03523]*.
- National Health Act—
Condition of registration under section 73B, dated 3 November 2005 [F2005L03613]*.

- Determination HIB 23/2005 [F2005L03621]*.
- Determination under paragraph 98B(1)(a), dated 17 November 2005 [F2005L03648]*.
- Navigation Act—Marine Order No. 7 of 2005—Carriage of dangerous goods [F2005L03607]*.
- Nuclear Non-Proliferation (Safeguards) Act—Select Legislative Instrument 2005 No. 270—Nuclear Non-Proliferation (Safeguards) Amendment Regulations 2005 (No. 1) [F2005L03693]*.
- Ozone Protection and Synthetic Greenhouse Gas Management Act—Select Legislative Instrument 2005 No. 254—Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulations 2005 (No. 3) [F2005L03476]*.
- Primary Industries (Excise) Levies Act—Select Legislative Instrument 2005 No. 246—Primary Industries (Excise) Levies Amendment Regulations 2005 (No. 4) [F2005L03465]*.
- Primary Industries Levies and Charges Collection Act—Select Legislative Instrument 2005 No. 247—Primary Industries Levies and Charges Collection Amendment Regulations 2005 (No. 2) [F2005L03466]*.
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- Select Legislative Instrument 2005 No. 269—Remuneration Tribunal (Members' Fees and Allowances) Regulations 2005 [F2005L03687]*.
- Renewable Energy (Electricity) Act—Select Legislative Instruments 2005 Nos—
- 255—Renewable Energy (Electricity) Amendment Regulations 2005 (No. 3) [F2005L03467]*.
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- Superannuation Industry (Supervision) Act—Select Legislative Instrument 2005 No. 261—Superannuation Industry (Supervision) Amendment Regulations 2005 (No. 5) [F2005L03446]*.
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- Dispensation Report 11/05 [2 dispensations].

Notice specifying jet aircraft permitted to take-off or land during a curfew period, dated 8 November 2005 [F2005L03601]*.

Taxation Administration Act—PAYG withholding—Tax tables [F2005L03696]*.

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Cervical spondylosis No. 33 of 2005 [F2005L03471]*.

Cervical spondylosis No. 34 of 2005 [F2005L03472]*.

Lumbar spondylosis No. 37 of 2005 [F2005L03478]*.

Lumbar spondylosis No. 38 of 2005 [F2005L03480]*.

Osteoarthritis No. 31 of 2005 [F2005L03464]*.

Osteoarthritis No. 32 of 2005 [F2005L03469]*.

Solvent related chronic encephalopathy No. 39 of 2005 [F2005L03482]*.

Solvent related chronic encephalopathy No. 40 of 2005 [F2005L03483]*.

Thoracic spondylosis No. 35 of 2005 [F2005L03474]*.

Thoracic spondylosis No. 36 of 2005 [F2005L03475]*.

*Governor-General's Proclamations—
Commencement of Provisions of Acts*

Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Act 2005—Part 2, and Division 1 of Part 3, of Schedule 1—30 November 2005 [F2005L03632].*

Migration Litigation Reform Act 2005—Schedule 1—1 December 2005 [F2005L03684].*

Primary Industries (Excise) Levies Amendment (Rice) Act 2005—Schedule 1—1 January 2006 [F2005L03468].*

* Explanatory statement tabled with legislative instrument.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Minister for Ageing: Overseas Travel
(Question No. 735)

Senator Chris Evans asked the Minister representing the Minister for Ageing, upon notice, on 4 May 2005:

For each financial year since 2000-01 to 2004-05 to date:

- (1) (a) What overseas travel was undertaken by the Minister; (b) what was the purpose of the Minister's visit; (c) when did the Minister depart Australia; (d) who travelled with the Minister; and (e) when did the Minister return to Australia.
- (2) (a) Who did the Minister meet during the visit; and (b) what were the times and dates of each meeting.
- (3) (a) On how many of these trips was the Minister accompanied by a business delegation; and (b) can details be provided of any delegation accompanying the Minister.
- (4) Who met the cost of travel and other expenses associated with the trip.
- (5) What total travel and associated expenses, if any, were met by the department in relation to: (a) the Minister; (b) the Minister's family; (c) the Minister's staff; and (d) departmental and/or agency staff.
- (6) What were the costs per expenditure item for: (a) the Minister; (b) the Minister's family; and (c) the Minister's staff, including but not necessarily limited to: (i) fares, (ii) allowances, (iii) accommodation, (iv) hospitality, (v) insurance, and (vi) other costs.
- (7) What were the costs per expenditure item for each departmental and/or agency officer, including but not necessarily limited to: (a) fares; (b) allowances; (c) accommodation, (d) hospitality; (e) insurance; and (f) other costs.
- (8) (a) What was the total cost of air charters used by the Minister or his/her office or department; and (b) on how many occasions did the Minister or his/her office or department and/or agency charter aircraft, and in each case, what was the name of the charter company that provided the service and the respective costs.

Senator Patterson—The Minister for Ageing has provided the following answer to the honourable senator's question:

The Minister for Ageing, the Hon Julie Bishop MP, was first appointed Minister on 7 October 2003 and has not undertaken any overseas travel since that date. Therefore, the answer to the questions asked is a nil response.

Minister for Agriculture, Fisheries and Forestry: Sponsored Travel
(Question No. 877 supplementary)

Senator Chris Evans asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 6 May 2005:

For each of the financial years 2000-01, 2001-02, 2002-03, 2003-04 and 2004-05 to date, can details be provided of all privately or commercially sponsored travel, including cost and sponsor for: (a) the Minister; (b) the Minister's family; (c) the Minister's personal staff; and (d) officers of the Minister's department.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(a) and (b) The Special Minister of State will respond to these parts of the Question.

(c)

Year	Details of Travel	Sponsor	Cost
2003-04	Air travel – 1 x return ticket Canberra Sydney	Bayer	Not available

(d) Sponsored travel by officers of the department is dealt with on a case by case basis in accordance with the Department's Chief Executive Instructions on travel and records of the occasions on which sponsored travel is undertaken are not available and could not readily be created.

Minister for Environment and Heritage: Overseas Travel

(Question No. 884 supplementary)

Senator Chris Evans asked the Minister for the Environment and Heritage, upon notice, on 6 May 2005:

For each of the financial years 2000-01, 2001-02, 2002-03 and 2004-05 to date, can details be provided of all privately or commercially sponsored travel, including cost and sponsor for:

- the Minister;
- the Minister's family;
- the Minister's personal staff; and
- officers of the Minister's department.

Senator Ian Campbell—The answer to the honourable senator's question is as follows:

- and (b) The Special Minister of State will respond on my behalf.
- Since I took up office in July 2004 my staff have undertaken private or commercially sponsored travel on two occasions:
 - Inspection of the oil and gas facilities and a tuna plant in the Bass Strait. Helicopter and aircraft charter organised by Australian Petroleum Product and Exploration Association. Details of the charter costs not known.
 - Inspection of the irrigation systems along the Murray River. Aircraft charter organised by Murray Irrigation Limited. Details of the charter costs not known.
- Any proposal for sponsored travel is dealt with on a case by case basis. Records of any occasion when sponsored travel has been undertaken is not readily available and could not readily be created. The department's systems are not set up to capture this type of information.

Quarantine Public Awareness Campaign

(Question No. 946)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 8 June 2005:

With reference to the Australian Quarantine Inspection Service *Quarantine Matters!* public awareness campaign:

- For each of the financial years 2002-03, 2003-04 and 2004-05 to date, can details be provided of the budgeted and actual expenditure for: (a) production; (b) talent; (c) media; (d) employees; (e) travel; (f) accommodation; and (g) other costs.

- (2) For each of the financial years 2005-06 and 2006-07, can budget details be provided for: (a) production; (b) talent; (c) media; (d) employees; (e) travel; (f) accommodation; and (g) other costs.
- (3) What campaign funding has been expended to date on: (a) metropolitan television; (b) non-metropolitan television; (c) metropolitan radio; (d) non-metropolitan radio; (e) metropolitan newspapers; (f) non-metropolitan newspapers; (g) metropolitan cinema; (h) non-metropolitan cinema; (i) outdoor billboards; (j) airport advertising; and (k) all other media.
- (4) What moneys have been expended to date on campaign tracking research.
- (5) For each of the financial years 2002-03, 2003-04 and 2004-05 to date, what amounts have been paid to: (a) Killey Withy Punshon Advertising Pty Ltd; (b) other companies for advertising services; (c) the Best Picture Show Company Pty Ltd; (d) other companies for production services; (e) Mr Steve Irwin; and (f) Australia Zoo.
- (6) How many shooting days were required to film the phase III campaign television/cinema advertisements.
- (7) What was the total cost of the phase III campaign launch at Australia Zoo on 13 May 2005.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

All financial data provided in answers to this Question is exclusive of GST.

- (1) See the table showing actual expenditure. All expenditure was within the allocated campaign budget.

	02-03	03-04	04-05
(a) Production *	880,817	626,748	794,198
(b) Talent	175,000	175,000	60,000
(c) Media	3,840,621	2,523,685	3,239,285
(d) Employees	405,135	335,954	452,801
(e) (f) Travel/Accommodation #	91,866	39,011	59,832
(g) Other +	912,337	891,455	866,665
Total	6,305,776	4,591,853	5,472,781

* - Includes a wide range of production such as advertising, printing of brochures and display materials.

- Includes both staff and consultant/contractor costs.

+ - Excludes corporate overhead costs.

- (2) Specific campaign budgets for the 2005-06 and 2006-07 financial years have yet to be finalised. In 2005-06 a total of \$5.940m is budgeted for the campaign, which includes all salaries and overhead costs. Of this approximately \$3.055m is expected to be spent on media placement.
- (3) Expenditure for previous years is not readily accessible in the form requested. In the financial year 2004-05 expenditure was:

	\$
(a) Metro TV	1,518,860
(b) Regional TV	315,111
(b) Pay TV	28,650
(c) (d) Radio #	50,233
(e) (f) Metro/Regional Newspapers	121,757
(g) (h) Cinema	83,108
(i) Billboards	0

	\$
(j) Airports	567,135
(k) Other *	554,431

- Non-English radio

* - Includes in-flight magazines, consumer and trade/specialist magazines, internet advertising off-shore targeting travellers and people sending mail to Australia.

- (4) A total of \$450,075 has been expended on tracking research for the financial years 2002-03, 2003-04 and 2004-05, the period during which television advertising has been part of the campaign.
- (5) (a) 2002-03 - \$988,565*
 2003-04 - \$471,585*
 2004-05 - \$609,401*
- (b) Nil
- (c) \$376 - 2002-03
- (d) The production costs of a range of campaign support and information products is not readily accessible in the form requested
- (e) Nil
- (f) \$60,000.
- * - Includes payments for development, production, printing and associated costs for a wide range of campaign products and advertising.
- (6) 3 days
- (7) \$3,163 (excludes staff travel and time)

Treasury: Grants
(Question No. 984)

Senator O'Brien asked the Minister representing the Treasurer, upon notice, on 24 June 2005:

For each of the financial years 2001-02, 2002-03, 2003-04 and 2004-05, has the Minister, the department or any agency or statutory authority for which the Minister is responsible, made grants or other payments to business organisations and/or associations, including but not necessarily limited to peak employer groups; if so, can information be provided for each grant or other payment including: (a) the name and address of the recipient organisation; (b) the quantum and purpose of the payment; (c) the name of the program under which the grant or other payment was funded; (d) who approved the grant or other payment; and (e) whether the grant or payment was successfully acquitted; if so, when; if not, can details be provided, including action taken to recover the grant or other payment.

Senator Minchin—The Treasurer has provided the following answer to the honourable senator's question:

Australian Accounting Standards Board

- (a) The Australian Accounting Standards Board (AASB) contributes to the International Accounting Standards Committee Foundation (IASCF). The IASCF is the governing body of the International Accounting Standards Board and is located at 30 Cannon Street, London, EC4M 6XH, United Kingdom.
- (b) The AASB made a contribution of \$700,000 to the IASCF on 3 July 2003 and a contribution of \$300,000 on 6 May 2004. These two payments made up the 2002-03 \$1 million Australian contribution to the cost of setting international accounting standards.

The AASB made a contribution of \$1 million to the IASCF on 4 November 2004. This payment was the 2003-04 \$1 million Australian contribution to the cost of setting international accounting standards.

- (c) Refer to Financial Reporting Council response.
- (d) These contributions were made at the direction of the Financial Reporting Council, the governing body of the AASB.

Auditing and Assurance Standards Board

(a) to (e) No

Australian Bureau of Statistics

(a) to (e) No

Australian Competition and Consumer Commission

(a) to (e) No

Australian Competition Tribunal

(a) to (e) No

Australian Office of Financial Management

The AOFM has not made any grants of any type during the years referred to in the Senator's question.

Australian Prudential and Regulation Authority

(a) to (e) No

Australian Reinsurance Pool Corporation

(a) to (e) No

Australian Securities & Investments Commission

(a) to (e) No

Australian Taxation Office

For the financial years 2001-02, 2002-03, 2003-04 and 2004-05, the ATO made grants or other payments to organisations and associations under the Diesel and Alternative Fuels Grants Scheme and the Fuel Sales Grant.

Recipients of the grants and/or payments include producer's co-operatives and associations, however, it is inconsistent with the Commissioner's responsibilities under the secrecy provisions in the excise legislation to provide information specific to individual organisations.

The total number and value of payments per year are as follows:

Financial Year	How many Payments	Total Payments
2001-2002	2	\$26,400
2002-2003	3	\$26,800
2003-2004	3	\$813,000
2004-2005	4	\$870,000

Companies Auditors and Liquidators Disciplinary Board

(a) to (e) No

Corporations and Markets Advisory Committee

(a) to (e) No

Financial Reporting Council

The following payments were made during 2004-05:

- (1) (a) International Accounting Standard Committee Foundation, 30 Cannon Street, London EC4M 6XH, United Kingdom.
- (b) \$500,000, being the first instalment of Australia's 2005 contribution to the cost of setting international accounting standards.
- (c) Well functioning markets (Output 3).
- (d) Financial Reporting Council recommended the payment, which was made during May 2005.
- (e) n/a
- (2) (a) International Accounting Standard Committee Foundation, 30 Cannon Street, London EC4M 6XH, United Kingdom.
- (b) \$500,000, being the second (and final) instalment of Australia's 2005 contribution to the cost of setting international accounting standards.
- (c) Well functioning markets (Output 3).
- (d) Financial Reporting Council recommended the payment, which was made during June 2005.
- (e) n/a

Inspector-General of Taxation

(a) to (e) No

Life Insurance Actuarial Standards Board

(a) to (e) No

National Competition Council

(a) to (e) No

Payments System Board

(a) to (e) No

Productivity Commission

(a) to (e) No

Superannuation Complaints Tribunal

(a) to (e) No

Takeovers Panel

(a) to (e) No

Treasury

The Department's answers to these questions are detailed in the table below.

Financial Year	Name/Recipient	Address	Amount	Purpose	Program name	Approved by relevant official	Acquitted	Acquittal Date
2001-02	Securities Institute of Australia	Level 33, Tower Building, Australia Square, Sydney NSW, 2000	\$500.00	To award promising studies in mergers and acquisitions	Securities Institute of Australia - National Award	Yes	Yes	March 2002
2001-02	Australian National University	Australian National University, ACT, 0200	\$500.00	Aims to increase Treasury's profile	Bachelor of Economics Prize in Economics III	Yes	Yes	2002

Financial Year	Name/Recipient	Address	Amount	Purpose	Program name	Approved by relevant official	Acquitted	Acquittal Date
2002-03	Australian National University	Australian National University, ACT, 0200	\$1,100.00	Aims to increase Treasury's profile and assist in developing networks between post-graduate students and academics	PhD Conference in Economics and Business	Yes	Yes	August 2002
2002-03	Australian National University	Australian National University, ACT, 0200	\$282.24	Aims to increase Treasury's profile	Bachelor of Economics Prize in Macroeconomics III	Yes	Yes	March 2003
2002-03	Securities Institute of Australia	Level 33, Tower Building, Australia Square, Sydney NSW 2000	\$500.00	To award promising studies in mergers and acquisitions	Securities Institute of Australia - National Award	Yes	Yes	June 2003
2003-04	Securities Institute of Australia	Level 33, Tower Building, Australia Square, Sydney, NSW, 2000	\$500.00	To award promising studies in mergers and acquisitions	Securities Institute of Australia - National Award	Yes	Yes	March 2004
2004-05	University of Melbourne	University of Melbourne, VIC, 3010	\$5,000.00	Financial contribution towards the running costs of the conference	2005 Conference of Economists	Yes	No ¹	N/A

¹ Conference is being held in September 2005.

Foreign Ships (Question No. 1165)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 9 September 2005:

With reference to the need for foreign ships to notify Australian authorities of crew identities before arrival:

- (1) (a) How many foreign ships have arrived in Australia per year since 2000; and (b) how many of these ships, for each year since 2000, have traded on the Australian coast under a single or continuing voyage permit after they have completed the international leg of their voyage.
- (2) Which Government agencies must be notified of crew lists for foreign ships before these ships arrive in Australia; (b) what level of information must be provided (e.g. name only, passport details, information that would constitute 100 points of identification); (c) does the Government have any ability to check that the names and documentation provided in relation to crew member identities is legitimate; (d) what other information must be provided at the same time (e.g. cargo manifests); and (e) how far in advance of arrival must this information be provided.
- (3) (a) Can a breakdown be provided, for each year since 2000, of the number of foreign ships that have met the pre-reporting requirements for foreign crews; and (b) what sanctions apply if a foreign ship does not meet the pre-reporting requirements for its crew.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) (a), 2(a), 2(b), 2(c), 3(a), and 3(b) I refer the Senator to the response by the Minister for Immigration and Multicultural and Indigenous Affairs to Senate Parliamentary Question on Notice 1166, and the response by the Minister for Justice and Customs to Senate Parliamentary Question on Notice 1167.
- (1) (b) The following table depicts the number of ships that traded on the Australian coast under a single or continuing voyage permit:

Year	Single Voyage Permit	Continuing Voyage Permit	Total
2000	269	56	325
2001	283	81	364
2002	325	68	393
2003	381	52	433
2004	346	43	389

*Figures are not available for 2005.

- (2) (d) The Maritime Transport and Offshore Facilities Security Act 2003 requires regulated foreign ships to provide pre-arrival information. The Maritime Transport and Offshore Facilities Security Regulations 2003 specify the pre-arrival information that must be provided. The Regulations also specify that pre-arrival information must be provided to a Customs officer at the time the crew report required under section 64ACB of the Customs Act 1901 is given.
- (2) (e) The Maritime Transport and Offshore Facilities Security Regulations 2003 specify that pre-arrival information must be provided to a Customs officer at the time the crew report required under section 64ACB of the Customs Act 1901 is given. Currently, ships intending to arrive in an Australian port must lodge the Crew List and the Impending Arrival Report no later than 48 hours in advance of arrival. With effect from 12 October 2005, vessels will be required to report their impending arrival no later than 96 hours in advance of arrival. There are cascading provisions to account for voyages that may be shorter than the prescribed 96 hours.

**Australian Customs Service: Integrated Cargo System
(Question No. 1231)**

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 15 September 2005:

- (1) (a) For those outages listed as 'over twelve hours' on the Australian Customs Service (ACS) Integrated Cargo System (ICS) website, can the precise length of time for each outage be provided; and (b) can information as noted in (1)(a) be provided for the financial years 2004-05 and 2005-06 to date.
- (2) (a) What was the cause of the failure in each case referred to in (1) above; and (b) what actions were taken to ensure that the failures did not recur.
- (3) (a) How long does it take to switch from the regular system to the backup (Business Continuity Plan) system in the case of a system outage; and (b) what backup system is in place in case of a system outage.
- (4) What is the format of the backup system, i.e. how does it differ from the regular system in terms of interface, input, speed (e.g. number of exports it can process per hour) and in what other aspects does it differ.
- (5) (a) What hardware is in place for the operation of the backup system; and (b) can specifications be provided for any computer hardware that is used in the system.
- (6) What software is used, and how does each piece of software interact with other ACS software including the ICS when it is back on-line.

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- (7) Does the backup system include any non-electronic component (i.e. paper based systems); if so: (a) what is the component; (b) how do non-electronic component/s interact with the software component; and (c) what details are taken non-electronically.
- (8) Is this backup system intended to act as the final backup system for use on the imports side of ICS after 12 October 2005; if not, how will the final system for imports differ.
- (9) Is this backup system intended to act as the final backup system once the Cargo Management Re-engineering project is completed; if not, how will the final system work.

Senator Ellison—The answer to the honourable senator's question is as follows:

- (1) (a) and (b) There have not been any outages during the 2004-05 or 2005-06 financial years on the Customs Integrated Cargo Systems (ICS) Internet site that have been listed as 'over twelve hours'.
- (2) (a) N/A.
- (3) (a) The Business Continuity Plan (BCP) for the exports component of the ICS has been operational since implementation in October 2004. Within the BCP, Customs commits to calling a formal outage when the "ICS or CCF has been, or is expected to be, inoperable for a period longer than 2 hours". The contingency plan also provides contingency release of exports cargo outside of formal outages when that cargo is in danger of missing its scheduled departure. This includes contingency release within the 2-hour period as required. However Customs imposes a mandatory 1-hour cut off period prior to the scheduled departure time, to ensure an acceptable level of risk assessment is undertaken for all cargo.
- (b) The back up system is currently a combination of a paper based process and an electronically based system. Clients are required to fax manifest details prior to delivering cargo for export for risk assessment. Customs risk assesses the cargo using an electronic contingency database lookup file.
- Trials are currently underway with members of the Conference of Asia Pacific Express Carriers (CAPEC) to move towards utilising a recently developed fully electronic Contingency Database (CDB). CAPEC members are TNT, UPS, DHL and FedEx. The trial will be extended to all export clients when successfully implemented.
- (4) The Contingency Database (CDB) is a standalone system that doesn't interface with the ICS. Customs legislation requires that all reports cleared manually during a period of unavailability, must be submitted electronically within 24 hours of the system again becoming operational. Specifications for the system have been provided to industry.
- The CDB requires a simple flat file in a comma separated value format. Cargo reporters are required to submit identified fields of information for each line of cargo that are essential for risk assessment. The information may be submitted through a compact disc (CDROM) at a Customs counters or through email to a designated Customs email address. The files containing the transactions are imported into the CDB, the transactions are risk assessed against Customs and Quarantine high risk profile data and provided with an appropriate movement status. The status is then returned to the reporter for each line of cargo in the same format as it was delivered. Results from trials with CAPEC members have demonstrated that the CDB can process large text files (covering their highest volumes of approximately 1500 export lines) within 15 minutes of receipt of their submissions.
- (5) (a) The CDB is maintained on Customs Local Area Networks in each region. It can be further used on suitably equipped standalone notebook computers should the Customs LAN be also unavailable.
- (b) The database is used with the existing Customs network. No specific hardware was required, other than the purchase of a small number of CDROM drives for some regional staff.

- (6) The CDB has been constructed using a Microsoft Access database and is designed to operate as a standalone system for the purposes of contingency release. Data is not transferred to the ICS, as a cargo reporter is obliged to resubmit full reporting data when the system again becomes operational.
- (7) As noted in answer 3 (b) the current backup is a combination of paper and electronic systems. The new CDB has no non-electronic components.
- (8) The CDB is the same system that is intended for the reporting, risk assessment and clearance of import cargo reports. This is the most important and urgent process in allowing import cargo to move away from ports and airports during an outage. The movement of underbond import cargo between customs places, and the clearance of goods into home consumption will be a combined electronic and paper based process.
- (9) The contingency database is intended to be the final backup system for the ICS, however a number of enhancements may be considered in time. As with exports, the backup system will always be open to review and potential modification if issues are identified after a major outage has occurred, and need to be addressed.

Educator, Science and Training: Consultants

(Question No. 1233)

Senator Sterle asked the Minister representing the Minister for Education, Science and Training, upon notice, on 15 September 2005:

- (1) Has the Minister or any agency in the Minister's portfolio, engaged or provided any funding or grants to either Mr Kevin Donnelly or to the consulting group, Education Strategies, of which Mr Donnelly is Director; if so, can a list be provided of the instances and quantum of funding or grants.
- (2) Has the Minister appointed Mr Donnelly to any positions or to any Boards in the Minister's portfolio; if so, can a list be provided of these appointments contract.

Senator Vanstone—The Minister for Education, Science and Training has provided the following answer to the honourable senator's question:

- (1) Dr Kevin Donnelly as an individual, has not been engaged by any agency in the Minister's portfolio. As far as the Department of Education, Science and Training (DEST) is aware, Education Strategies is the trading name for the legal entity, Impetus Consulting Pty/Ltd as Trustee for the K Donnelly Family Trust. Since 1996, Impetus Consultants Pty Ltd has been commissioned by DEST to undertake the following:

Year	Title	Amount Paid
June 1997- June 1998	Independent advice on the Discovering Democracy education materials.	\$29,690
September 1998 - June 1999	Independent advice on the Discovering Democracy education materials (1998-1999)	\$23,115
July 1999 - June 2000	Independent advice on the Discovering Democracy education materials (1999-2000)	\$17,170
July 2000 - June 2001	Independent advice on the Discovering Democracy education materials (2000-2001)	\$16,102
September 2001 - June 2002	Independent advice on the Discovering Democracy education materials (2001-2002)	\$16,211
October 2002 - June 2003	Independent advice on the Discovering Democracy education materials (2002-2003)	\$17,356

Year	Title	Amount Paid
June 2003 - April 2004	National mapping of gender specific and gender related curricula	\$56,100
May 2005 - Sept 2005	Benchmarking Australian Primary School Curricula	\$79,900

- (2) Dr Donnelly was one of several individuals and organisations invited on 27 May 2005 to join the Steering Committee for a project being undertaken by the Australian Council for Educational Research (ACER) which is investigating models and implementation arrangements for an Australian Certificate of Education. The project is scheduled to conclude at the end of December 2005.

Tobacco Products

(Question No. 1241)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 22 September 2005:

With reference to the answer to question on notice no. 1014 (Senate *Hansard*, 16 August 2005, p. 205) relating to tobacco products which states that, 'The Australian Government does not have the constitutional power to comprehensively legislate against the manufacture and sale of tobacco products, including flavoured cigarettes':

- (1) Has the Government ratified the World Health Organization Framework Convention on Tobacco Control (WHO FCTC).
- (2) Is the Minister aware that the High Court in *Victoria v Commonwealth* [1996] 187 CLR 416, at 458 found that the 'external affairs' power of the Constitution provides the Commonwealth with power to legislate to fulfil obligations that it has assumed upon entering into a treaty, even if it involves 'the intrusion of Commonwealth law into a field that has hitherto been the preserve of State law'.
- (3) Do the regulatory obligations accepted by parties to the WHO FCTC include: (a) a comprehensive ban on all forms of tobacco advertising, promotion and sponsorship; (b) packaging and labelling requirements; and (c) the regulation of the contents and emissions of tobacco products.
- (4) Can the Minister indicate whether regulating the contents of tobacco products would include flavourings added to tobacco products; if not, why not.
- (5) Has the department sought any advice on how the 'external affairs' power of the Constitution could be applied by the Commonwealth to legislate to meet its commitments under the WHO FCTC; if so, what was that advice; if not, why not.

Senator Patterson—The Minister for Health and Ageing has provided the following answer to the honourable senator's question:

- (1) Yes.
- (2) Yes.
- (3) (a) (b) and (c) Yes, subject to the qualifications expressed in the text of the Convention itself. A copy of the relevant articles of the WHO FCTC is at Attachment A.
- (4) The Australian Government, as a party to the WHO FCTC, will play an active role in the development of the guidelines as described in Article 9 of Attachment A. Until these guidelines are completed there are no specific obligations under the WHO FCTC regarding flavoured cigarettes.
- (5) Yes. Legal advice indicates that the external affairs power would support Commonwealth legislation that is reasonably capable of being considered appropriate and adapted to give effect to Australia's obligations under the Framework Convention on Tobacco Control.

ATTACHMENT A**Excerpts from the World Health Organization Framework Convention on Tobacco Control**

The following Articles relate to all forms of tobacco advertising, promotion and sponsorship; packaging and labelling requirements; and the regulation of the contents and emissions of tobacco products.

(a) All forms of tobacco advertising:

“Article 13 Tobacco advertising, promotion and sponsorship

1. Parties recognize that a comprehensive ban on advertising, promotion and sponsorship would reduce the consumption of tobacco products.
2. Each Party shall, in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, a comprehensive ban on cross-border advertising, promotion and sponsorship originating from its territory. In this respect, within the period of five years after entry into force of this Convention for that Party, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.
3. A Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles shall apply restrictions on all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, restrictions or a comprehensive ban on advertising, promotion and sponsorship originating from its territory with cross-border effects. In this respect, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.
4. As a minimum, and in accordance with its constitution or constitutional principles, each Party shall:
 - (a) prohibit all forms of tobacco advertising, promotion and sponsorship that promote a tobacco product by any means that are false, misleading or deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;
 - (b) require that health or other appropriate warnings or messages accompany all tobacco advertising and, as appropriate, promotion and sponsorship;
 - (c) restrict the use of direct or indirect incentives that encourage the purchase of tobacco products by the public;
 - (d) require, if it does not have a comprehensive ban, the disclosure to relevant governmental authorities of expenditures by the tobacco industry on advertising, promotion and sponsorship not yet prohibited. Those authorities may decide to make those figures available, subject to national law, to the public and to the Conference of the Parties, pursuant to Article 21;
 - (e) undertake a comprehensive ban or, in the case of a Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles, restrict tobacco advertising, promotion and sponsorship on radio, television, print media and, as appropriate, other media, such as the internet, within a period of five years; and
 - (f) prohibit, or in the case of a Party that is not in a position to prohibit due to its constitution or constitutional principles restrict, tobacco sponsorship of international events, activities and/or participants therein.
5. Parties are encouraged to implement measures beyond the obligations set out in paragraph 4.
6. Parties shall cooperate in the development of technologies and other means necessary to facilitate the elimination of cross-border advertising.
7. Parties which have a ban on certain forms of tobacco advertising, promotion and sponsorship have the sovereign right to ban those forms of cross-border tobacco advertising, promotion and sponsorship

entering their territory and to impose equal penalties as those applicable to domestic advertising, promotion and sponsorship originating from their territory in accordance with their national law. This paragraph does not endorse or approve of any particular penalty.

8. Parties shall consider the elaboration of a protocol setting out appropriate measures that require international collaboration for a comprehensive ban on cross-border advertising, promotion and sponsorship.”

(b) Packaging and labelling requirements

“Article 11 Packaging and labelling of tobacco products

1. Each Party shall, within a period of three years after entry into force of this Convention for that Party, adopt and implement, in accordance with its national law, effective measures to ensure that:

(a) tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular tobacco product is less harmful than other tobacco products. These may include terms such as “low tar”, “light”, “ultra-light”, or “mild”; and

(b) each unit packet and package of tobacco products and any outside packaging and labelling of such products also carry health warnings describing the harmful effects of tobacco use, and may include other appropriate messages. These warnings and messages:

(i) shall be approved by the competent national authority,

(ii) shall be rotating,

(iii) shall be large, clear, visible and legible,

(iv) should be 50% or more of the principal display areas but shall be no less than 30% of the principal display areas,

(v) may be in the form of or include pictures or pictograms.

2. Each unit packet and package of tobacco products and any outside packaging and labelling of such products shall, in addition to the warnings specified in paragraph 1(b) of this Article, contain information on relevant constituents and emissions of tobacco products as defined by national authorities.

3. Each Party shall require that the warnings and other textual information specified in paragraphs 1(b) and paragraph 2 of this Article will appear on each unit packet and package of tobacco products and any outside packaging and labelling of such products in its principal language or languages.

4. For the purposes of this Article, the term “outside packaging and labelling” in relation to tobacco products applies to any packaging and labelling used in the retail sale of the product.”

(c) The regulation of the contents and emissions of tobacco products

“Article 9 Regulation of the contents of tobacco products

The Conference of the Parties, in consultation with competent international bodies, shall propose guidelines for testing and measuring the contents and emissions of tobacco products, and for the regulation of these contents and emissions. Each Party shall, where approved by competent national authorities, adopt and implement effective legislative, executive and administrative or other measures for such testing and measuring, and for such regulation.

Article 10 Regulation of tobacco product disclosures

Each Party shall, in accordance with its national law, adopt and implement effective legislative, executive, administrative or other measures requiring manufacturers and importers of tobacco products to disclose to governmental authorities information about the contents and emissions of tobacco products. Each Party shall further adopt and implement effective measures for public disclosure of information about the toxic constituents of the tobacco products and the emissions that they may produce.”

Workplace Relations Legislation**(Question No. 1242)**

Senator Marshall asked the Minister representing the Prime Minister, upon notice, on 26 September 2005:

- (1) For the 2005 calendar year to date, can the names be provided of all legal firms employed by the department to undertake work for the Government on the development or drafting of workplace relations legislation.
- (2) For each of the firms listed in the answer to (1) above, can the following information be provided: (a) when did the contract commence and when will it end; (b) what service is the legal firm providing to the Government; (c) has the legal firm seconded staff to the department; if so: (i) how many staff members have been seconded, and (ii) for how long are the staff members seconded; (d) has the legal firm seconded staff to the Minister's office; if so: (i) how many staff members have been seconded, and (ii) for how long are the staff members seconded; (e) what is the value of the contract; and (f) was there a public tendering process for the contract; if so: (i) when was the process advertised and in which publications, (ii) what details were provided in the tendering advertising and documentation, and (iii) can a copy of the tendering documents and relevant advertising be provided.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator's question:

- (1) I am advised that, for the 2005 calendar year, current to 4 October 2005, no legal firms have been employed by the Department of the Prime Minister and Cabinet to undertake work on the development or drafting of workplace relations legislation.
- (2) Not applicable.

Poland: Legal Proceedings**(Question No. 1270)**

Senator Bob Brown asked the Minister representing the Attorney-General, upon notice, on 29 September 2005:

With reference to the 1933 Convention between Australia and Poland regarding Legal Proceedings in Civil and Commercial Matters:

- (1) Is it the case that, under the Convention, Polish courts will not accept, or send communications to, respondents in court cases in Poland, including the outcome of cases in which they are involved, unless the respondents appoint a representative residing in Poland for the duration of the proceedings.
- (2) Does the Government agree that this condition could impose a significant burden on some individual respondents.
- (3) Will the Government negotiate with the Government of Poland to ensure that Australian residents are informed of the terms of the case and of the outcome of proceedings.
- (4) Are there any other countries which impose similar limitations upon the information made available to respondents to civil proceedings.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator's question:

- (1) The Convention between the United Kingdom and Poland regarding Legal Proceedings in Civil and Commercial Matters entered into force for Australia in 1933. The provisions of the Convention

govern the service of judicial and extra-judicial documents, the taking of evidence and judicial assistance for poor persons, imprisonment for debt and security for costs.

The provisions of the Convention do not deal with how the Polish courts should treat parties to legal proceedings in Poland. Relations between the Polish courts and respondents to proceedings in the Polish courts are governed by the laws of Poland, and are a matter for the judicial authorities of that country.

- (2) It is not appropriate for me to comment on the practices of judicial authorities in other jurisdictions.
- (3) At this stage the Government has no plans to enter into negotiations with Poland towards a new bilateral arrangement governing legal proceedings in civil and commercial matters.

The European Court of Justice is currently considering whether Poland and other European Community Member States are competent to enter into individual bilateral arrangements about such matters. The European Court of Justice is yet to issue its advisory opinion on this point.

- (4) As stated above, the practice of the judicial authorities of other countries, including the types of information they make available to parties to legal proceedings within their jurisdictions, and how the information is delivered, is a matter for those authorities and the domestic law of the jurisdiction. The Government is not aware of any practices in other civil jurisdictions which involve restrictions being imposed on the information made available to respondents based upon the appointment of a representative residing in the jurisdiction.

Australian Customs Service: Integrated Cargo System

(Question No. 1274)

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 4 October 2005:

- (1) (a) What is the procedure for continuing security vetting in the event of an Integrated Cargo System exports system outage; and (b) can information be provided on the process and how it differs from the security vetting in normal circumstances.
- (2) Do all users of the vetting system get the same treatment during an outage, that is, do they all follow the same procedures; if not, what other vetting arrangements are there.
- (3) Do the procedures include self-vetting; if so (a) on what basis is this done; (b) what procedures does the Australian Customs Service have in place to monitor the self-vetting; (c) how are users selected for the self-vetting process and can information be provided on the process; (d) what continuing processes are in place for users to keep self-vetting status; and (e) can a list be provided of which users are entitled to use the self-vetting process.

Senator Ellison—The answer to the honourable senator's question is as follows:

- (1) (a) In the event of an Integrated Cargo Systems exports system outage, Customs invokes the Exports Business Continuity Plan; (b) A copy of this plan is available to the public via the Customs Internet site. Customs maintains information independently of the Integrated Cargo System, which is used to manually security vet during an Integrated Cargo System exports system outage. The Customs Internet address for this plan is <http://www.customs.gov.au/site/page.cfm?u=5538>.
- (2) Until recently Customs had a single procedure for the entire exporting community during an export systems outage. This arrangement is still in force for the majority of exporters and requires information to be provided manually by exporters and consolidators of export consignments, in exchange for export clearance authority. This information is subjected to manual security vetting and Customs is able to hold exportations that do not satisfy security vetting requirements. Upon resumption of normal operations, information submitted manually during the outage is required to be submitted to Customs in electronic format to the Integrated Cargo System.

Customs is currently piloting a new arrangement for security vetting that will reduce the impacts of manual reporting during an exports systems outage. This arrangement makes use of data provided in electronic format and is being tested with the air express carrier sector, which was selected for piloting this arrangement due to the time sensitive nature of their business. This new arrangement will soon be made available to the rest of the exporting community and see a return to a single procedure.

- (3) The procedures for security vetting during an Integrated Cargo System exports system outage do not include self-vetting.

Australia Zoo

(Question No. 1277)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 5 October 2005:

Is the Minister aware of a proposal to operate helicopter flights from the Australia Zoo, Beerwah, Queensland; if so: (a) when and how did the Minister first become aware of the proposal; (b) when and from whom has the Minister received representations in relation to the proposal; (c) what was the nature and outcome of each representation; (d) if a representation was in writing, can a copy of the representation be provided; if not, why not; and (e) if records of a representation were made, can a copy of such records be provided; if not, why not.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

Yes.

- (a) and (b) The Minister first became aware of the proposal to operate helicopter flights from Australia Zoo through correspondence from the Hon. Paul Lucas, Queensland Minister for Transport and Main Roads in July 2005.
- (c) Minister Lucas wrote to the Minister in response to representations from constituents. The Minister replied to Minister Lucas in a letter dated the 12th of August 2005.
- (d) and (e) Copies of the relevant correspondence are available from the Senate Table Office.

SIEVX

(Question No. 1280)

Senator Nettle asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 5 October 2005:

With reference to the answer to question on notice no. 431 (Senate *Hansard*, 14 June 2005, p. 168) regarding the sinking of the SIEV X vessel:

- (1) What was the evidentiary basis for Senator Vanstone's answer that the vessel sank in 'international waters'.
- (2) What was the evidentiary basis for Senator Ellison's statement, in a media release of 8 June 2005, that the sinking occurred in international waters.
- (3) (a) Why was the answer to the question, noted above, amended on 13 September 2005 to change the location from 'international waters' to 'unknown location'; and (b) on what evidence was this based.
- (4) (a) Why was the press release noted in (2) above amended on 15 July 2005 to change the location from 'international waters' to 'unknown location'; and (b) who authorised the amendment.

Senator Vanstone—The answer to the honourable senator's question is as follows:

- (1) My first response to question 431 indicating that the boat known as SIEV X sank in international waters was consistent with the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) records and with our responses to the Senate Select Committee on a Certain Maritime Incident that the boat sank approximately 60 nautical miles south of the Sunda Strait. DIMIA's records at that time were based on an estimate provided by Coastwatch.
- (2) I am unable to respond to this question. You should seek advice from Senator Ellison on this matter.
- (3) (a) and (b) The estimate was not subsequently corroborated by other sources and the Australian Government's position is that the location where the vessel sank is unknown. This was endorsed by the Senate Select Committee on a Certain Maritime Incident.
- (4) (a) and (b) It was appropriate that the previous responses concerning this matter be amended to reflect the consensus across Government agencies that the position of the sinking is unknown and that the answer to question 431 had been based on an estimate that was not corroborated by other sources.

Imports: Cost Recovery Charges

(Question No. 1281)

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 5 October 2005:

- (a) What are the current cost-recovery charges on the imports side;
- (b) can details be provided of the triggering action, form name and number and charge; and
- (c) can information be provided on the costs for the financial years 2000-01 to 2004-05.

Senator Ellison—The answer to the honourable senator's question is as follows:

- (a) Current cost-recovery charges on imports are listed in the second column of the first of the attached schedules (Attachment 1);
- (b) the triggering action that results in the charges being applied plus information on the forms used are listed in column 3 of the first of the attached schedules (Attachment 1); and
- (c) the costs associated with the commercial aspects of import processing (Core Import Processing), the Increased Quarantine Intervention initiative and the Container Examination Facility Logistics for the financial years 2000-01 to 2004-05 are listed in Attachment 2.

Schedule of Current Cost-Recovery Charges on Imports

Item	(a) Charge	(b) Triggering Action, Form Name and Number
Import (N10) and warehouse (N20) declaration charges		
Sea (electronic)	\$49.50 per declaration	The owner liable, when the Import Declaration is communicated to Customs in electronic format (N10, N20 or N10/N20)
Air and post (electronic)	\$30.10 per declaration	
Sea (documentary)	\$65.75 per declaration	The owner liable, when the Import Declaration is communicated to Customs (B650).
Air and post (documentary)	\$48.85 per declaration	
Periodic declaration processing charges	\$1,275 per declaration	The owner liable, when the Periodic Declaration is sent to Customs in electronic format.

Item	(a) Charge	(b) Triggering Action, Form Name and Number
Request for cargo release (RCR) processing charge	\$9.40 per RCR	The owner liable, when the RCR is communicated to Customs in electronic format.
Depot licence application charges	\$3,000 per application	New applicants liable on Application (B300)
	\$1,500 annual fee for depots with less than 300 transactions per annum.	Depots with less than 300 transactions p.a., licensee pays on renewal invoice.
	\$4,000 annual fee for all other depots	All other depots, licensee pays on renewal invoice
Depot licence variation charge	\$300 depot license variation charge	All depots when licensee applying for the variation of a depot license (B305)
Warehoused Goods Declaration (Ex-Warehoused goods) fees		
Electronic	\$23.20 per declaration	The owner of warehoused goods liable on making a Warehoused Goods Declaration electronically (N30) or by document (B650)
Documentary	\$60.00 per declaration	
Manual cargo reporting charges	(to be discontinued after statutory moratorium on mandatory electronic reporting of cargo reports under section 64AB of the Customs Act 1901)	
Sea	\$2.60 per manifest line	The cargo handler liable, on communicating a documentary Cargo Report to Customs
Air	\$3.00 per house or straight line airway bill	

Costs for the Financial Years 2000-01 to 2004-05

Year	Core Import Processing	Container Examination Facility Logistics	Increased Quarantine Initiative	Total
2000-01	\$79.4m	0	0	\$79.4m
2001-02	\$83.8m	0	\$10.8m	\$94.6m
2002-03	\$85.1m	\$4.3m	\$11.2m	\$96.3m
2003-04	\$84.8m	\$19.5m	\$11.5m	\$115.8m
2004-05	\$97.8m	\$26.4m	\$15.0m	\$139.2m

Public Key Encryption Infrastructure

(Question No. 1285)

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 5 October 2005:

With reference to the Australian Customs Service, the Australian Federal Police, the Attorney-General's Department, the Australian Transaction Reports and Analysis Centre, CrimTrac and the Australian Crime Commission:

- (1) Do the departments or agencies use public key encryption infrastructure for any of their systems; if not: (a) was public key encryption infrastructure ever considered; if so, can details be provided; (b) what infrastructure is used in place of public key encryption; (c) why was another form of encryption chosen; and (d) what were the perceived benefits of this form over public key encryption.

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- (2) Did any department or agency consult with other departments or agencies regarding the use of public key encryption infrastructure; if so: (a) which agencies; (b) when were the consultations held; and (c) what was the nature of discussions or correspondence.
- (3) If another encryption infrastructure was used: (a) can details be provided of the software used; (b) was the software developed in-house or externally; (c) if developed externally: (i) was a tender process used, and (ii) was the tender process open or closed; (d) if the process was closed: (i) which companies were invited to tender, and (ii) how were these companies selected; (e) was the tender advertised; if so, where was the tender advertised; if not, why not; (f) what was the cost of the development and can a breakdown of the cost be provided; and (g) does the cost include payments to consultants, or any other external development firm; if not, why not.

Senator Ellison—The answer to the honourable senator's question is as follows:

AUSTRALIAN CUSTOMS SERVICE

- (1) Yes
- (a) Not applicable
 - (b) Not applicable
 - (c) Not applicable
 - (d) Not applicable
- (2) Yes
- (a) Australian Taxation Office, Australian Government Information Management Office and its predecessors, Department of Industry, Science and Tourism, Department of Employment and Workplace Relations and Defence Signals Directorate.
 - (b) Discussions commenced during 2000 and are ongoing.
 - (c) Discussions and correspondence on public key infrastructure (PKI) standards and technical and policy issues connected with implementing PKI.
- (3) Not Applicable
- (b) Not Applicable
 - (c) (i) Not Applicable
(ii) Not Applicable
 - (d) (i) Not Applicable
(ii) Not Applicable
 - (e) Not Applicable
 - (f) Not Applicable
 - (g) Not Applicable

AUSTRALIAN FEDERAL POLICE (AFP)

- (1) Yes
- (a) Not applicable
 - (b) Not applicable
 - (c) Not applicable
 - (d) Not applicable
- (2) Yes
- (a) Defence Signals Directorate and, as necessary, with other security agencies.
- (3) The AFP uses a mixture of Public Key and other encryption devices within its infrastructure.

The AFP follows DSD guidelines and uses devices on the Evaluated Products List.

- (b) Not Applicable
- (c) (i) Not Applicable
(ii) Not Applicable
- (d) (i) Not Applicable
(ii) Not Applicable
- (e) Not Applicable
- (f) Not Applicable
- (g) Not Applicable

ATTORNEY-GENERAL'S DEPARTMENT

- (1) Yes
 - (a) Not applicable
 - (b) Not applicable
 - (c) Not applicable
 - (d) Not applicable
- (2) No
 - (a) Not applicable
 - (b) Not applicable
 - (c) Not applicable
- (3) Not applicable
 - (a) Not applicable
 - (b) Not applicable
 - (c) (i) Not applicable
(ii) Not applicable
 - (d) (i) Not applicable
(ii) Not applicable
 - (e) Not applicable
 - (f) Not applicable
 - (g) Not applicable

AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS CENTRE (AUSTRAC)

- (1) No
 - (a) Yes, based on risk management decisions, only single-factor authentication (i.e. complex usernames and passwords) in conjunction with symmetric cryptography (and other controls) is currently required for AUSTRAC systems. The original decision was based on the size of the community providing or receiving information, the classification of the information, contractual arrangements with third parties, access controls (i.e. authentication, authorisation and accountability), and the availability of symmetric cryptographic solutions that were fit-for-purpose.

AUSTRAC's use of cryptography complies with the Australian Government Information Technology Security Manual. AUSTRAC's in-house developed systems and AUSTRAC's im-

plementation of cryptographic solutions have been reviewed by the Defence Signals Directorate.

In summary, the residual risk did not justify the additional security of two-factor authentication and asymmetric cryptography, as well as the additional expense, management overhead, training requirements and burden on AUSTRAC's information users and providers.

- (b) AUSTRAC currently uses symmetric cryptographic solutions such as SSL, 3DES and AES. The infrastructure required for SSL is limited to certificates (provided by VeriSign) and browser technology. The 3DES and AES solutions are implemented using DSD certified products such as firewalls, routers and concentrators.
- (c) Based on risk management decisions, the residual risk did not justify the additional security of two-factor authentication and asymmetric cryptography. Further, the residual risk did not justify the additional expense, management overhead, training requirements and burden on AUSTRAC's information users and providers.
- (d) Symmetric cryptography was seen as fit-for-purpose. Symmetric cryptography also has cost, management and training benefits.

(2) Yes

- (a) Australian Taxation Office
- (b) November 2000 to March 2001
- (c) AUSTRAC reviewed the development and application of the ABN-DSC PKI model with a view to use the certificates for AUSTRAC applications.

(3) Yes

- (a) AUSTRAC uses SSL, 3DES and AES cryptography. All products are DSD approved cryptographic algorithms.
- (b) AUSTRAC has the Open SSL, which is open source, hence developed externally at no cost to AUSTRAC. 3DES and AES are open DSD approved cryptographic algorithms that are included in most common software and hardware products listed on the DSD Evaluated Products List (EPL).
- (c) (i) The 3DES and AES are both proprietary cryptographic standards developed externally and supplied with software and hardware products under licence. Both algorithms are common amongst most suppliers' products. A tender process was used.
(ii) A closed (select) tender process was used.
- (d) (i) CSC Pty Ltd, DPI Systems Pty Ltd, MCR Pty Ltd. Suppliers were selected to tender if they were endorsed to supply DSD EPL products to government.
(ii) Endorsed suppliers
- (e) The tender was not advertised. Public advertising not required for select tender.
- (f) No development costs
- (g) Not Applicable

CRIMTRAC

(1) Yes

- (a) Not applicable
- (b) Not applicable
- (c) Not applicable

- (d) Not applicable
- (2) Yes
 - (a) Some police jurisdictions and some accredited agencies.
 - (b) During the past two years, at many different times, as implementation of the solution progressed.
 - (c) We discussed technical details of implementation of PKI solutions to our inter-agency transmission of sensitive information.
- (3) Yes
 - (a) Two other forms of encryption infrastructure are used:
 - 1. We understand that part of a solution installed by one of our (out-sourced) service providers uses symmetrical encryption embedded in components of our VPN solution.
 - 2. The PGP product is used for securing some NCHRC transmissions.
 - (b) Externally in both cases
 - (c) (i) For the VPN solution, we are unaware what process our service provider used.
No tender process was used as the cost of the license for the PGP product is only \$170 per annum (approx.)
 - (ii) Closed
 - (d) (i) As immediately previous
 - (ii) As immediately previous
 - (e) As immediately previous
 - (f) As immediately previous
 - (g) As immediately previous

AUSTRALIAN CRIME COMMISSION (ACC)

- (1) No
 - (a) The use of PKI was considered during the development of current ACC systems. PKI was not used because does not meet the business needs of the ACC and the State Police Jurisdictions and other external agencies who connect to ACC systems.
 - (b) All ACC systems use a point-to-point secure encrypted network, to the standards required by the Australian Government Protective Security Manual 2005 and Australian Government Information and Communications Technology Security Manual, supported by a system of authorised user ids and passwords.
 - (c) ACC business needs were better met utilising network security combined with authorised user ids and passwords.
 - (d) Reduced complexity compared to PKI systems.
- (2) No
 - (a) Not applicable
 - (b) Not applicable
 - (c) Not applicable
- (3) Yes
 - (a) Government-approved encrypted wide area network together with a challenge and response framework (User id and passwords).
 - (b) In house

- (c) (i) Not applicable
- (ii) Not applicable
- (d) (i) Not applicable
- (ii) Not applicable
- (e) Not applicable
- (f) There are no detailed cost breakdown records available for the encryption infrastructure development undertaken within the various ACC internal systems.
- (g) The ACC has engaged consultants to assist in the development of ACC computer and network systems. There are no detailed cost breakdown records available for specific encryption infrastructure development activities.

Education, Science and Training: Consultants

(Question No. 1288)

Senator Wong asked the Minister representing the Minister for Education, Science and Training, upon notice, on 5 October 2005:

- (1) Can details be provided of all employment contracts and consulting arrangements entered into since 1996 between the department and (a) Mr Kevin Donnelly; (b) Impetus Consultants Pty Ltd; and (c) Education Strategies.
- (2) With reference to the information provided in (1) above, can details be provided on: (a) the funding provided to Mr Donnelly, Impetus Consultants Pty Ltd, and Education Strategies, for each period of employment and each consultancy contract; (b) the tendering arrangements for each consultancy contract; (c) the advertising arrangements for each period of employment; (d) the funding for each employment period and for each consultancy contract, including specific amounts of money paid to Mr Donnelly, and separately to: (i) Education Strategies, and (ii) Impetus Consultants Pty Ltd together with related payments for all other purposes; (e) the commencement dates for each period of employment and for each consultancy; (f) the duties, tasks, responsibilities, outputs and deliverables for each period of employment and for each consultancy; (g) the employment level or classification of Mr Donnelly for each period of employment; (h) the date of termination or completion in relation to each period of employment and each consultancy contract; (i) the name and position title of the person or persons to whom Mr Donnelly reported or was supervised by in relation to each period of employment and each consultancy contract; and (j) all other matters pertinent to each period of employment and each consultancy contract.

Senator Vanstone—The Minister for Education, Science and Training has provided the following answer to the honourable senator's question:

- (1) Can details be provided of all employment contracts and consulting arrangements entered into since 1996 between the department and (a) Mr Kevin Donnelly; (b) Impetus Consultants Pty Ltd; and (c) Education Strategies.
 - (a) Mr Kevin Donnelly, as an individual has had no employment of consulting arrangements with the department since 1996;
 - (b) Since 1996, Impetus Consultants Pty Ltd (as trustees for the K Donnelly Family Trust) has been engaged to provide advice and services to the department. Details of these contracts are in Attachment A.
 - (c) Education Strategies is the trading name of Impetus Consultants Pty Ltd.
- (2) With reference to the information provided in (1) above, can details be provided on: (a) the funding provided to Mr Donnelly, Impetus Consultants Pty Ltd, and Education Strategies, for each period of employment and each consultancy contract; (b) the tendering arrangements for each consultancy

contract; (c) the advertising arrangements for each period of employment; (d) the funding for each employment period and for each consultancy contract, including specific amounts of money paid to Mr Donnelly, and separately to: (i) Education Strategies, and (ii) Impetus Consultants Pty Ltd together with related payments for all other purposes; (e) the commencement dates for each period of employment and for each consultancy; (f) the duties, tasks, responsibilities, outputs and deliverables for each period of employment and for each consultancy; (g) the employment level or classification of Mr Donnelly for each period of employment; (h) the date of termination or completion in relation to each period of employment and each consultancy contract; (i) the name and position title of the person or persons to whom Mr Donnelly reported or was supervised by in relation to each period of employment and each consultancy contract; and (j) all other matters pertinent to each period of employment and each consultancy contract.

(a) No funding has been provided to Mr Donnelly or Education strategies. Details of funding to Impetus Consultants Pty Ltd are attached.

Title	(a) & (d) Funding for each contract (GST incl)	(b) Tendering arrangements	(c) Advertising Arrangements	(e) Commence- ment Dates	(f) Duties, responsibilities, out- puts and deliverables	(g) Employment level or classification	(h) Termination date/ completion	(i) Name and posi- tion title of person who supervised	(j) Any and all other perti- nent matters
Independent advice on the Discovering Democracy education materials	\$29,690	1 written Quote Pre-eminent Expertise.	n/a	19-Jun-97	Written comments to Department on all draft Discovering Democracy civics and citizenship education materials and advice to the Civics Education Group	n/a	12-Jun-98	Ms Mary Johnston, Assistant Secretary, Quality Schooling Branch	n/a
Independent advice on the Discovering Democracy education materials (1998-99)	\$23,115	1 written Quote Pre-eminent Expertise.	n/a	22-Sep-98	Written comments to Department on all draft Discovering Democracy civics and citizenship education materials and advice to the Civics Education Group	n/a	14-Jun-99	Ms Mary Johnston, Assistant Secretary, Quality Schooling Branch	n/a
Independent advice on the Discovering Democracy education materials (1999-2000)	\$17,170	1 written Quote Pre-eminent Expertise	n/a	20-Jul-99	Written comments to Department on all draft Discovering Democracy civics and citizenship education materials and advice to the Civics Education Group	n/a	16-Jun-00	Ms Mary Johnston, Assistant Secretary, Quality Schooling Branch	n/a
Independent advice on the Discovering Democracy education materials(2000-2001)	\$16,102	1 written Quote Pre-eminent Expertise	n/a	27-Jul-00	Written comments to Department on all draft Discovering Democracy civics and citizenship education materials and advice to the Civics Education Group	n/a	26-Jun-01	Ms Mary Johnston, Assistant Secretary, Quality Schooling Branch	n/a

Title	(a) & (d) Funding for each contract (GST incl)	(b) Tendering arrangements	(c) Advertising Arrangements	(e) Commence- ment Dates	(f) Duties, responsibilities, out- puts and deliverables	(g) Employment level or classification	(h) Termination date/ completion	(i) Name and posi- tion title of person who supervised	(j) Any and all other perti- nent matters
Independent advice on the Discovering Democracy education materials (2001-2002)	\$16,211	1 written Quote Pre-eminent Expertise	n/a	6-Sep-01	Written comments to Department on all draft Discovering Democracy civics and citizenship education materials and advice to the Civics Education Group	n/a	21-Jun-02	Mr Arthur Townsend, Assistant Secretary, Quality Schooling Branch	n/a
Independent advice on the Discovering Democracy education materials (2002-2003)	\$17,356	1 written Quote Pre-eminent Expertise	n/a	8-Oct-02	Written comments to Department on all draft Discovering Democracy civics and citizenship education materials and advice to the Civics Education Group	n/a	26-Jun-03	Mr Arthur Townsend, Assistant Secretary, Quality Schooling Branch	n/a
National mapping of gender specific and gender related curricula	\$56,100	1 written Quote Pre-eminent Expertise	n/a	12-Jun-03	To collect information about curricula and associated materials from Australian schools that have been designed with a specific gender focus or are gender related and to summarise this information in a way which would enable other schools to understand the purpose of individual initiatives, how they work and their intended outcomes.	n/a	3-May-04	Ms Mylinh Hardham, Assistant Secretary, Participation and Outcomes Branch	n/a

Title	(a) & (d) Funding for each contract (GST incl)	(b) Tendering arrangements	(c) Advertising Arrangements	(e) Commence- ment Dates	(f) Duties, responsibilities, out- puts and deliverables	(g) Employment level or classification	(h) Termination date/ completion	(i) Name and posi- tion title of person who supervised	(j) Any and all other perti- nent matters
Benchmarking Australian Primary School Curricula	\$79,900	1 written Quote Innovative pro- posal submitted by and exclusive to Education Strategies	n/a	4-May-05	To complete a comparative analysis of primary school curricula in mathematics, science and English across all Australian education systems and a number of overseas countries.	n/a	23-Sep-05	Dr Trish Mercer, Assistant Secre- tary, Quality Schooling Branch and Noel Simpson Acting Assistant Secretary, Quality Schooling Branch	n/a

SIEVX**(Question No. 1290)**

Senator Bob Brown asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 5 October 2005:

With reference to the answer to question on notice no. 431 (Senate *Hansard*, 14 June 2005, p. 168) regarding the sinking of the SIEV X vessel in which it was stated that the tragedy occurred in 'international waters' and the subsequent amendment to the answer replacing these specific words with the non-specific words 'at an unknown location':

- (1) Why was the first answer revised.
- (2) If the tragedy site is unknown, can it be said that it was not: (a) in Australian waters, (b) in Indonesian waters; and (c) in either, but in international waters.
- (3) Based on the best possible advice, what is the area outside which the tragedy did not occur and can coordinates be provided.

Senator Vanstone—The answer to the honourable senator's question is as follows:

- (1) My first response to question 431 indicating that the boat known as SIEV X sank in international waters was consistent with the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) records and with our responses to the Senate Select Committee on a Certain Maritime Incident that the boat sank approximately 60 nautical miles south of the Sunda Strait. DIMIA's records at that time were based on an estimate provided by Coastwatch. However, that estimate was not subsequently corroborated by other sources and the Australian Government's position is that the location where the vessel sank is unknown. It was appropriate that the previous responses concerning this matter be amended to reflect the consensus across Government agencies that the position of the sinking is unknown and that the answer to question 431 had been based on an estimate that was not corroborated by other sources.
- (2) I do not intend to speculate on where the unknown position of the sinking may or may not be in respect of international waters and the territorial seas of Indonesia and Australia.
- (3) As the location of the sinking is unknown, it is not possible to provide the information requested.

Cootamundra Aboriginal Girls Training Centre Memorial**(Question No. 1298)**

Senator O'Brien asked the Minister for Finance and Administration, upon notice, on 6 October 2005:

Is the Minister aware of a proposal to build a memorial to the Cootamundra Aboriginal Girls' Training Centre on land at Hovell Street, Cootamundra, controlled by the Australian Rail Track Corporation (ARTC); if so: (a) when and how did the Minister become aware of the proposal; (b) when and from whom has the Minister or the department received representations in relation to the proposal; (c) what was the nature and the outcome of each representation; (d) if a representation was made in writing, can a copy of the representation be provided; if not, why not; (e) if records of a representation were made, can a copy of such records be provided; if not, why not; (f) what are the dimensions, in square metres, of the piece of land in question; (g) what is: (i) the market value of the land, and (ii) the value as determined by the Valuer General; (h) does ARTC own this land; (i) who are the shareholders of ARTC; (h) (i) what, if any, commercial opportunities are being explored by ARTC in relation to this piece of land, and (ii) when is a final decision expected.

Senator Minchin—The answer to the honourable senator's question is as follows:

Prior to the honourable Senator's question I was not aware of the proposal to build a memorial to the children of the Cootamundra Aboriginal Girls' Training Centre. I became aware of the proposal as a result of the honourable Senator's question. No representations have been made to me or my Department on this matter.

In regard to the resolution of this matter, I am able to advise the honourable Senator that the Managing Director of ARTC, Mr David Marchant, has advised the Minister for Transport and Regional Services that:

- (i) in discussions with the Cootamundra Shire Council and the Secretary of the Cootamundra Reconciliation Group, ARTC has identified what it believes is a more appropriate location for the Memorial on land it leases to the Council for the Cootamundra Heritage Centre;
- (ii) there is verbal agreement between the parties to the new location; and
- (iii) the ARTC Regional Property Manager at Wagga Wagga will continue to liaise with the parties to progress this matter.

In regard to the honourable senator's questions on the ownership of ARTC and the Cootamundra land, I am able to advise the honourable Senator that:

- (1) the shares of ARTC are the property of the Commonwealth of Australia, and the Minister for Transport and Regional Services and I act as the shareholder Ministers for ARTC; and
- (ii) the ARTC controlled land in Cootamundra is leased by ARTC under its sixty year lease of New South Wales Interstate and Hunter Valley rail assets from the State Rail Authority of New South Wales and the Rail Infrastructure Corporation.