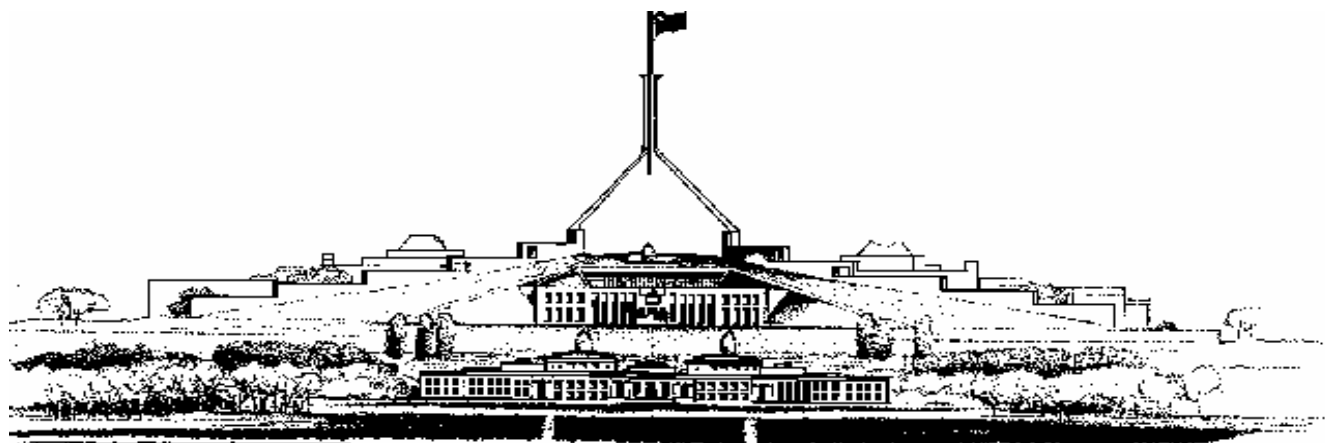




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

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No. 6, 2004

Wednesday, 31 March 2004

FORTIETH PARLIAMENT
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SITTING DAYS—2004

Month	Date
February	10, 11, 12, 16, 17, 18, 19
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October	5, 6, 7
November	1, 2, 3, 4, 22, 23, 24, 25, 29, 30
December	1, 2

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Wednesday, 31 March 2004

The **SPEAKER (Mr Neil Andrew)** took the chair at 9.00 a.m., and read prayers.

PERSONAL EXPLANATIONS

Mr LATHAM (Werriwa—Leader of the Opposition) (9.01 a.m.)—Mr Speaker, I wish to make a personal explanation.

The SPEAKER—Does the Leader of the Opposition claim to have been misrepresented?

Mr LATHAM—Yes, very much so, by the Prime Minister yesterday evening.

The SPEAKER—Please proceed.

Mr LATHAM—Mr Speaker, in question time yesterday the Prime Minister said that I had not received briefings from Foreign Affairs or Defence officials on Iraq. Yesterday afternoon, in a personal explanation, I said that this was not the case—that it was not true—and I asked the Prime Minister to withdraw and apologise. The Prime Minister then disputed my personal explanation with his own statement to the House at 7 o'clock yesterday evening. He said that my briefing on 5 January was with the deputy director of the Department of Defence; in fact, it was with the Deputy Secretary of Intelligence and Security at the Department of Defence, Mr Ron Bonighton. The Prime Minister initially said that he had seen the record of interview from this briefing, but then had to correct himself and say that he had not. He then told the House that he had been informed by an unnamed person that, from the record of the interview, there was no mention of Iraq.

The facts are these. I met with Mr Bonighton in my electorate office at Ingleburn on Monday, 5 January. The meeting was scheduled to go from 5 p.m. to 5.45 p.m., and my recollection is that it went longer than that. Mr Bonighton briefed me on several sub-

jects—one was the situation in Iraq. We had lengthy discussions that dealt with a range of security and intelligence matters in Iraq and the failure to find weapons of mass destruction. I was well informed by this briefing, for which I thank Mr Bonighton.

On the question of the ASIS briefing, ASIS is an agency that is part of the Department of Foreign Affairs and Trade. My briefing with ASIS on 11 February included substantial security matters relevant to Iraq. As the Prime Minister knows full well, ASIS has relevant responsibilities beyond those mentioned in the Prime Minister's statement at 7 p.m. yesterday. These are the facts—this is the truth—and I again ask the Prime Minister to apologise and withdraw.

The SPEAKER—Before I call the Clerk, I indicate to the House that, in the instance of both the Prime Minister and the Leader of the Opposition, I have—appropriately, from my point of view as the chair—allowed greater range than would normally be allowed for a personal explanation, and I would not want that level of range to become anticipated by backbenchers.

ANTI-TERRORISM BILL 2004

First Reading

Bill presented by **Mr Ruddock**, and read a first time.

Second Reading

Mr RUDDOCK (Berowra—Attorney-General) (9.04 a.m.)—I move:

That this bill be now read a second time.

This is a **bill** to strengthen Australia's counter-terrorism laws in a number of respects—a task made more urgent following the recent tragic terrorist bombings in Spain which resulted in the loss of 190 innocent lives.

The safety and security of its population and national interests is the most important responsibility of any government.

It is a responsibility this government takes very seriously.

Our response to the threat of terrorism has been comprehensive and wide ranging.

Since the devastating September 11 attacks in New York and Washington, the government has overhauled Australia's legislative framework in relation to terrorism, to complement existing laws that already targeted terrorism.

But it is a task that is ongoing.

In the current environment, complacency is not an option.

Our counter-terrorism laws require review and, where necessary, updating if we are to have a legal framework capable of safeguarding all Australians from the scourge of terrorism.

This government has worked hard to ensure that the reach of Australia's criminal justice system extends to cover terrorists by eliminating loopholes and gaps.

We have updated the federal Criminal Code to ensure that our offence regime comprehensively responds to terrorism.

The Security Legislation Amendment (Terrorism) Act 2002 introduced a suite of offences into the Criminal Code targeting persons involved in terrorist acts or terrorist organisations.

It is now appropriate to improve the capability of Australia's law enforcement agencies to properly investigate these new terrorism offences.

Since 11 September 2001, the AFP have, sadly, had experience in investigating acts and allegations of international terrorism.

They cooperated closely with Indonesian authorities investigating the Bali bombings.

That experience has revealed that issues such as differences in international time zones may substantially reduce the time

available during the investigation period to actually question a suspect.

The bill responds to these issues in two concrete ways.

First, it extends the fixed investigation period under part 1C of the Crimes Act for investigations into suspected terrorism offences.

At present, an initial period of four hours is available for any investigation, including investigations into terrorism offences, with a further eight hours available for serious crimes if authorised by a magistrate or other judicial officer.

While this limit has worked well in relation to conventional offences and a time limit is necessary to maintain confidence in the reliability of evidence, it is an inadequate length of time in which to question suspects in the context of complex terrorism investigations that may have international aspects.

The bill would maintain the initial investigation period of four hours; however, it would provide for this period to be extended for up to a further 20 hours.

This would give a maximum investigation period of 24 hours.

As with any extension of the fixed investigation period, each extension would have to be authorised by a magistrate or other judicial officer.

The magisterial supervision and other safeguards, such as 'dead time' to allow a person arrested to rest and recuperate before and during questioning, would ensure that the reliability of evidence is not compromised.

Secondly, the bill permits law enforcement agencies to reasonably suspend or delay questioning of a person suspected of committing a terrorism offence to make overseas inquiries to obtain information relevant to that terrorism investigation.

At present, the part 1C questioning regime does not permit investigators to make overseas inquiries without running down the investigation 'time clock' or, worse still, releasing the suspect.

Given that terrorism investigations will often have an international dimension, it is vital that authorities be able to make overseas inquiries without compromising their obligation to question a suspect fully.

And with international time zones a likely cause of delay in responding to requests for information and assistance from Australian authorities, the bill prescribes this time as 'dead time' so that it does not exhaust the finite investigation period.

In adjusting Australia's investigatory procedures to meet the new terrorist environment, the government recognises the need to ensure that appropriate safeguards are put in place to maintain the balance between security and individual rights and freedom.

That is why this extension would only apply to investigations of relevant terrorist offences under the Criminal Code.

Any decision to suspend or delay questioning to make overseas inquiries must be reasonable in the circumstances and must only last for a reasonable period that does not exceed the amount of the time zone difference.

And that is why all the existing safeguards in part 1C of the Crimes Act will continue to apply to terrorist suspects being investigated in accordance with the Crimes Act regime.

These safeguards include:

- a suspect's right to communicate with a legal practitioner, friend or relative, an interpreter or a consular office
- a suspect's right to remain silent
- requiring the tape recording of any admissions or confessions made by a sus-

pect as a pre-condition for admissible evidence, and

- a suspect's right to a copy of recorded interviews.

These amendments will greatly improve the ability of Australia's law enforcement authorities to effectively enforce our terrorism laws.

The bill also amends the Crimes (Foreign Incursions and Recruitment) Act.

The recent armed conflict in Afghanistan demonstrates that in today's security environment terrorist organisations may be acting in collaboration with the armed forces of a foreign state.

In future conflicts there is a real possibility that terrorist organisations will continue to operate with the armed forces of sympathetic foreign states.

The Crimes (Foreign Incursions and Recruitment) Act was designed to prohibit Australian citizens and those ordinarily resident in Australia from engaging in hostile activities in a foreign state.

Currently, a person does not commit an offence under the Foreign Incursions Act if the person commits hostile activities while serving in any capacity in or with the armed forces of a foreign state.

As a result, where a terrorist organisation is part of the armed forces of a government, a person involved in that terrorist organisation will not be liable for an offence under the Foreign Incursions Act.

The bill gives the government the power to prescribe organisations for the purposes of the act.

Engaging in hostile activities while in or with a prescribed organisation will not be excused on the basis that the organisation was part of the armed forces of a foreign state under the regime to be introduced here.

In recognition of the serious nature of the hostile activities prohibited by the Foreign Incursions Act, the bill will increase the maximum penalty for committing a hostile activity to 20 years imprisonment.

Currently, the Foreign Incursions Act is only applicable to a non-Australian citizen or resident if the person was in Australia at any time during the year preceding the doing of an act which is an offence against the Foreign Incursions Act.

This means that a person who is not a citizen or resident escapes the reach of the Foreign Incursions Act on day 366.

The bill will amend the Foreign Incursions Act to make it clear that a person, whether or not an Australian citizen or resident, who was in Australia at any time for a purpose connected with a hostile activity will be liable for prosecution under the act.

The Foreign Incursions Act provides for three types of ministerial certificates, two serving as prima facie evidence of the facts recognised in the certificates and one serving as conclusive evidence of recognised facts.

The three types of certificates relate to facts that are difficult to prove or that may have implications for Australia's international relations because of the political nature of the facts (for example, whether a place or an area is or is in an independent sovereign state, whether a person was acting in the course of his duty to the Commonwealth and whether an authority was in effective governmental control of a state or part of a state).

Proving whether a group or organisation is part of the armed forces of a state is similarly difficult to prove and may also have implications for Australia's international relations.

Recognising this fact, the bill contains an amendment enabling a minister to issue a certificate attesting to the fact that a group

was not part of the armed forces of a state at any one time.

Such a certificate would be prima facie evidence of the fact stated therein.

These amendments to the Foreign Incursions Act modernise the act and ensure that it remains a valuable legislative tool in protecting Australia's national security and holding persons accountable for their acts committed both within Australia and overseas.

The bill also amends the Criminal Code to make it an offence for a person to be a member of an organisation found by a court to be a terrorist organisation on the basis of facts presented in the course of a trial, where that organisation is not listed in regulations as a terrorist organisation.

This amendment will bring the membership offence provisions in line with the other terrorist organisation offence provisions which apply both in relation to terrorist organisations listed in regulations and organisations found to be terrorist organisations by a court.

The effect of the proposed amendment would be to return the membership offence in division 102 of the Criminal Code to its original form as set out in the Security Legislation Amendment (Terrorism) Bill when it was introduced in 2002.

The inconsistency between the membership offence and other terrorist offences was the result of pressure exerted by the Senate during the passage of that bill.

It does not make sense to have a membership offence which will not apply in circumstances where a court finds that an organisation is a terrorist organisation, and where all other terrorist organisation offences do apply.

A further amendment to section 102.5 of the Criminal Code will introduce modified offences of providing training to or receiving training from a terrorist organisation.

The first offence will apply where a person is reckless as to whether an organisation is a terrorist organisation.

The second offence, which introduces a strict liability component, will apply only in the case where a terrorist organisation has been specified by regulations under division 102 of the Criminal Code.

The effect of the proposed strict liability provision is that the prosecution still has to prove that the person intentionally provided training to or intentionally received training from an organisation, and that the organisation is a terrorist organisation specified by regulations.

However, the prosecution would not have to prove that the person was aware that it was a specified terrorist organisation.

A person will have available a defence of mistake of fact.

In addition, the offence will not apply if the person is not reckless as to the organisation being a specified terrorist organisation.

The effect of this amendment is to place an onus on persons to ensure that they are not involved in training activities with a terrorist organisation.

This amendment will send a clear message to those who would engage in the training activities of terrorist organisations, which could result in an attack of the kind seen in New York or in Bali, that they can expect to be dealt with harshly.

The last set of amendments concern the Proceeds of Crime Act.

The need for strong and effective laws for the confiscation of proceeds of crime is self-evident and has been considered and supported by this chamber in the past.

The purpose of such laws is to discourage and deter crime by diminishing the capacity of offenders to finance future criminal activi-

ties and to remedy the unjust enrichment of criminals who profit at society's expense.

Literary proceeds are one aspect of the Proceeds of Crime Act.

The literary proceeds regime prevents criminals exploiting their notoriety for commercial purposes.

Orders can be made, for example, where criminals sell their stories to the media. Proposed amendments to the regime will further limit the ability of a person to profit from crime.

Literary proceeds include any benefit that a person derives from the commercial exploitation of his or her notoriety resulting from that person committing an indictable offence or foreign indictable offence.

Three sets of amendments to the Proceeds of Crime Act are proposed.

The first amendment will extend the operation of the Proceeds of Crime Act for foreign indictable offences beyond literary proceeds derived in Australia to also cover literary proceeds that have been derived elsewhere and then subsequently transferred to Australia.

The second set of amendments concern the definition of 'foreign indictable offence'.

For a literary proceeds order to be made for such an offence, the conduct must also have been an offence under Australian law punishable by at least 12 months imprisonment if it had occurred in Australia.

The government proposes to amend the definition of 'foreign indictable offence' to clarify that the time at which the double criminality test is to be applied is the time of the application for the restraining or confiscation order in question, whichever comes first.

The definition of 'foreign indictable offence' will also be amended to make it clear that the term includes an offence triable by a

military commission of the United States under a specified military order.

This will ensure that a person convicted of an offence by certain US military commissions cannot exploit his or her notoriety from that offence for commercial gain and derive proceeds in Australia or transfer such proceeds to Australia.

Third, the act requires that any benefit that a person derives from the commercial exploitation of the person's notoriety results from the person having committed an indictable or foreign indictable offence.

This final amendment to the act will make it clear that the notoriety need only be indirectly linked to the offence for an order to be made.

For example, the notoriety could flow from where the person was detained rather than from the commission of the offence.

I commend the bill to the House. I hope that it will have a speedy passage through both chambers and that any committee review will be undertaken expeditiously. I present the explanatory memorandum.

Debate (on motion by **Mr McClelland**) adjourned.

**INDUSTRIAL CHEMICALS
(NOTIFICATION AND ASSESSMENT)
AMENDMENT (LOW REGULATORY
CONCERN CHEMICALS) BILL 2004**

First Reading

Bill presented by **Ms Worth**, and read a first time.

Second Reading

Ms WORTH (Adelaide—Parliamentary Secretary to the Minister for Health and Ageing) (9.20 a.m.)—I move:

That this bill be now read a second time.

I am pleased to introduce the **Industrial Chemicals (Notification and Assessment) Amendment (Low Regulatory Concern**

Chemicals) Bill 2004. The bill presents a range of amendments that deliver real reform by creating a long term, sustainable, competitive advantage for the chemicals and plastics industry. I believe these reforms offer an innovative approach to introduce flexibility into the regulation of industrial chemicals, while at the same time improving health, safety and environmental standards and public access to chemical safety information.

The bill makes a number of changes to the Industrial Chemicals (Notification and Assessment) Act 1989 (the act). The act establishes a system of notification and assessment of industrial chemicals to protect health, safety and the environment—and to provide for registration of certain persons proposing to introduce industrial chemicals. The Department of Health and Ageing portfolio, through the National Industrial Chemicals Notification and Assessment Scheme (NICNAS), administers the act.

These reforms reflect the government's commitment to ensure the most efficient regulatory system is in place for industrial chemicals, that is, a system that does not inhibit the introduction of new and safer chemicals. These reforms have been developed in partnership with industry, the community and government.

The proposed changes give effect to the government's response to the recommendations of the Chemicals and Plastics Action Agenda in December 2002. This response indicated the government's agreement to examine options for flexibility in the assessment processes for industrial chemicals.

The industry has taken the Chemicals and Plastics Action Agenda very seriously and is monitoring government and industry progress in implementing the recommendations through the Chemicals and Plastics Leadership Group. Regulation reform was consid-

ered a high priority for the chemicals and plastics industry and the proposed changes will address longstanding industry concerns about the need for more efficient approval processes for industrial chemicals.

The chemicals industry is one of the largest sectors in the world. In Australia in 2000-01 the chemicals and plastics industry contributed \$6.9 billion in 'industry value added'—with an annual turnover greater than \$22 billion. Chemicals are integral components of most manufactured and processed primary products. The proposed amendments are aimed at enhancing Australian industry capacity and addressing issues raised by industry in the Chemicals and Plastic Action Agenda.

The proposed changes to the act are the result of seven months of collaborative effort on the part of the government, industry and the community. This led to the publication of the final report and recommendations for NICNAS Low Regulatory Concern Chemicals (LRCC) Reform Initiative and the implementation strategy for NICNAS Low Regulatory Concern Chemicals (LRCC) Reform Initiative in August 2003. The proposed changes to the act are based on the recommendations that were agreed during the reform consultation process and recorded in these publications.

The government has already implemented a number of the recommendations made in the LRCC final report that did not require legislative change. This has seen the establishment of the NICNAS Community Engagement Forum with membership drawn from national bodies including the Australian Consumers Association, the Australian Council of Trade Unions, the Health Issues Centre and the National Environment Consultative Forum. In addition NICNAS had undertaken education and training activities as well enhancing compliance activities.

The bill provides a range of reforms for industry that are counter-balanced with penalty provisions to ensure compliance as well as enhancements for public access to chemical safety information. This package delivers reform for industry while protecting existing levels of worker safety, public health and environmental standards.

One of the specific changes proposed in the bill is the introduction of a new process of audited self-assessment for low regulatory concern chemicals.

The OECD New Chemicals Task Force and the EU have praised the audited self-assessment process as a highly innovative approach and are looking at how it might be adopted within their jurisdictions. Adopting this process within Australia requires amending the act to allow manufacturers and importers, who are known as introducers under the act, to self-assess a chemical against criteria and guidelines issued by NICNAS. This will introduce flexibility into the current assessment process for industrial chemicals to enable the fast tracking of low regulatory concern chemicals while maintaining existing levels of worker safety, public health and environmental standards.

The new process for audited self-assessment will include an audited self-assessment certificate for polymers of low concern; non-hazardous chemicals; and other chemicals, or classes of chemicals that are prescribed by the regulations for the purposes of the self-assessment system.

The new self-assessment provisions will be counter-balanced with corresponding penalty provisions under the act. All holders of self-assessment certificates will be required to keep self-assessment data records for five years; to submit an annual report to NICNAS; and to comply with any notices from NICNAS requiring information relating to self-assessment data. Penalties will be

imposed on introducers for breaching any of these requirements.

The changes to the act also introduce new permit categories for low regulatory concern chemicals and adopt administrative processes for some permit renewals. This includes:

- a low hazard permit for chemicals of low volume; and
- a permit category for controlled use chemicals.

Changes to the permit system also include expanding the early introduction permit system to cover low hazard and low risk chemicals.

Again, these new provisions will be counter-balanced with corresponding penalty provisions for breaches of permit conditions under the act.

A range of new exemptions is also proposed for low regulatory concern chemicals. The new exemption categories include:

- a transshipment exemption for chemicals off-loaded at an Australian port or airport for less than 30 days and kept under the control of Customs before reshipment out of Australia;
- an exemption for non-hazardous and low hazardous non-cosmetic chemicals of specified volumes;
- an exemption for low concentration non-hazardous cosmetic chemicals imported in specified mixtures; and
- an increase to the current exemption for research, development and analysis and the general exemption for low volume chemicals.

These exemption categories will also be subject to reporting requirements and audits by NICNAS inspectors. It will be an offence to breach any of the exemption requirements and penalties will be incurred as a result.

It is also proposed that the current company registration scheme be extended to

cover the broader industrial chemicals industry. Presently, the company registration scheme only covers those who import and/or manufacture industrial chemicals over a certain annual threshold amount, which is currently \$500,000 per year. Introducers over this threshold are currently required to register with and pay a company registration charge to NICNAS.

Under the changes, this scheme will be extended to cover all importers and manufacturers of industrial chemicals, regardless of the amount imported and/or manufactured each year. Essentially, this means that all importers and manufacturers of industrial chemicals will be required to register with NICNAS. Introducers below the threshold will continue to be exempt from paying company registration charge and only an annual administration fee (\$336) will apply to these introducers. This will only be a minor impost on industry and is necessary because NICNAS is a fully cost recovered scheme.

This proposal for mandatory registration was suggested by industry during the reform consultation period as a way of increasing industry knowledge of NICNAS and compliance with the act and thereby enhancing community confidence in the chemical industry. This proposal will mean that—for the first time—the regulator will have direct engagement of all companies importing and/or manufacturing industrial chemicals in Australia. Currently, NICNAS only directly engages with about 11 per cent of the industry through company registration.

The amendments to the act also incorporate changes in relation to the Australian Inventory of Chemical Substances. The inventory is the legal device that distinguishes new industrial chemicals from existing industrial chemicals in Australia. All chemicals on the inventory are defined as existing chemicals,

while industrial chemicals not included in the inventory are defined as new industrial chemicals and must be assessed by NICNAS before they can be introduced, unless exempt under the act.

Currently, new industrial chemicals are listed on the inventory five years after a certificate is issued by NICNAS. Under the proposed changes, however, the act would be amended to give certificate holders the option to request that an assessed chemical be included on the inventory immediately and to allow for the chemical to be listed on the inventory following this request.

Further, the proposed changes give the director of NICNAS the discretion to put additional details on the inventory. These include details of the assessment of the industrial chemical, details of use, if applicable, and any other conditions.

These amendments will mean that the introducers will no longer have to try and envisage what uses their chemicals might be put to in the future, because the chemicals will only be able to be introduced for the specific uses where this is applicable. This will prevent chemicals that have been assessed for a particular use, for instance, from being imported or manufactured for a different, unassessed use, and which could be more harmful to health, safety and the environment.

To ensure compliance with these new provisions, it will be an offence to breach a condition of the inventory, and the penalty for this offence will be 120 penalty units.

Finally, it is also proposed that the definition of 'cosmetics' under the act be amended to harmonise it with that used under the trade practices legislation. This will improve consistency in the government's regulatory approach to cosmetics and will align the Australian definition with the European definition of cosmetics.

In summary, there is strong support for all of the proposed amendments. These amendments have been developed in response to industry concerns and in consultation with industry, government and the community. The reforms for fast tracking of the assessment processes are counterbalanced with enhanced public access to information, increased record keeping requirements and enhanced compliance activity.

The proposed amendments do not change the objects of the act but introduce flexibility into the current assessment process for industrial chemicals to enable the fast tracking of low regulatory concern chemicals while maintaining existing levels of worker safety, public health and environmental standards. The bill provides a package of amendments that in its entirety delivers real reform for the industry while protecting health, safety and the environment. I present the signed explanatory memorandum.

Debate (on motion by **Mr Cox**) adjourned.

CHILD SUPPORT LEGISLATION AMENDMENT BILL 2004

First Reading

Bill presented by **Mr Anthony**, and read a first time.

Second Reading

Mr ANTHONY (Richmond—Minister for Children and Youth Affairs) (9.33 a.m.)—
I move:

That this bill be now read a second time.

This **Child Support Legislation Amendment Bill 2004** gives effect to some minor policy measures in relation to child support.

Some legislative amendments and regulations made in 2000, in relation to overseas maintenance arrangements, allowed for Australia's cooperation with certain other countries in assessing and enforcing child support liabilities across jurisdictions. To meet our

international obligations in this area, especially in the time available to set down these provisions, some of the regulations were inconsistent with the principal legislation. However, it was always intended to remove that inconsistency by bringing the provisions contained in the regulations within the scheme of the principal child support legislation. This bill brings that intention to fruition. It also makes minor or consequential amendments to the family law legislation.

For the most part, the provisions are simply being relocated. However, after some years of experience with the provisions, the opportunity is also being taken to refine some aspects of the provisions.

For example, it is being clarified that the provisions apply only while one parent remains a resident of Australia—if both were overseas, Australian child support law should not apply. To reflect the basic intention of these international arrangements, it is also being made clear that an application from overseas for the assessment of child support, or registration of a liability, is generally to be made through the administrative authority of the other country. Also among the refinements being made is a structured approach towards eliminating the possibility of dual liabilities or repeated new liabilities. These situations, which cannot occur in domestic child support cases, have proven to be difficult in overseas cases and need specific new provisions to stop them arising.

The bill also contains a series of measures to improve the equity between the two parties to each child support case, in access to court for review of the case, and to streamline some aspects of the review process.

At present, there is a general rule that a party must lodge an objection (an internal review) before being able to apply to court. One of the improvements to be made by this bill builds upon amendments made in 2001,

so that either party has access to court if either one of them has first lodged an objection in the matter and had it finalised. This will eliminate the possibility of multiple objections on the same matter—it is better for all concerned if the matter proceeds to court without further delay.

Cases in which parentage of the child is in dispute generally have to proceed to court without going through the objection process. This bill makes sure that the few situations in which this is not currently the case receive the same treatment so that both parties have the same immediate right of access to court.

In relation to decisions to depart from the usual child support administrative assessment provisions, it is being provided that either party may choose between lodging an objection and applying to court. If both forms of review were to be sought at the same time by one or both parties, the court would determine whether the objection would proceed before the court case. Further streamlining measures in the review process are also given effect by this bill, such as allowing an application for an extension of time to lodge an objection to be made orally.

The bill provides for a number of other minor policy measures, which generally address anomalies in the current system or improve aspects of child support administration. For example, the child support secrecy provisions are being amended to allow personal information to be disclosed in two situations. The first is to allow ministers access to information so that correspondence and similar tasks may be finalised for a client who has expressly or impliedly consented to the minister having the information. For example, a minister may need to reply to representations made, on behalf of a child support client, by the client's local member. The second is to allow the Child Support Agency to report to the police a threat made by a client

to harm himself or herself, so that police may intervene, if appropriate, to protect the client.

In a further measure, the requirement to give information about an administrative assessment to both parents affected by the assessment is being rationalised. This is to make sure that only necessary information is given in each case, while still making sure that each parent has enough information to explain fully the basis for the assessment. Firstly, information given about children other than those for whom the assessment is made (e.g., a child of a current relationship) is to be limited strictly to matters relevant to the legislative provisions that apply to those situations. Secondly, if a child support agreement or court order modifies an administrative assessment, only information beyond the agreement or order itself will need to be given.

The garnishee provision in the child support legislation is also being refined to recognise that the Child Support Agency will not always need to recover the full amount of a debt, or the full amount owing by the third party to the debtor. For example, if other satisfactory repayment arrangements are made, a lesser amount may be recovered under the garnishee provision.

This bill also contains some minor technical amendments. I commend the bill to the House and present the explanatory memorandum.

Debate (on motion by **Mr Cox**) adjourned.

**MILITARY REHABILITATION AND
COMPENSATION BILL 2003**

Consideration of Senate Message

Message from the Governor-General recommending appropriation for the bill and proposed amendments announced.

Consideration resumed from 30 March.

Senate's requested amendments—

(1) Clause 5, page 10 (line 29), omit “the opposite sex to the member”, substitute “either sex”.

(2) Clause 12, page 17 (lines 13 to 25), omit subclause (2), substitute:

Deceased members eligible for Special Rate Disability Pension

(2) This section applies in respect of a deceased member if the member satisfied the eligibility criteria in section 199 (persons who are eligible for Special Rate Disability Pension) during some period of his or her life.

(3) Page 103 (after line 26), at the end of Subdivision D, add:

114A Example periods for those injured as continuous full-time Reservists

(1) For the purposes of the definition of *example period* in sections 113 and 114 for an incapacitated Reservist who was a continuous full-time Reservist when the service injury was sustained, or the service disease was contracted, the Commission may determine, as the end of the example period, a time before the onset date for the Reservist's incapacity for service or work (instead of a time before the Reservist began his or her last period of continuous full-time service).

(2) If the Commission does so, a reference in sections 112, 113 and 114 to a time before the Reservist began his or her last period of continuous full-time service is taken instead to be a reference to a time before the onset date for the Reservist's incapacity.

(4) Page 154 (after line 23), at the end of Subdivision D, add:

173A Example periods for those injured as continuous full-time Reservists

(1) For the purposes of the definition of *example period* in sections 172 and 173 for an incapacitated person who was a continuous full-time Reservist when the service injury was sustained, or the service disease was contracted, the Commission may determine, as the

end of the example period, a time before the person last ceased to be a member of the Defence Force (instead of a time before the person began his or her last period of continuous full-time service).

- (2) If the Commission does so, a reference in sections 171, 172 and 173 to a time before the person began his or her last period of continuous full-time service is taken instead to be a reference to a time before the person last ceased to be a member of the Defence Force.
- (5) Clause 210, page 177 (line 31) to page 178 (line 6), omit subclause (2), substitute:
- (2) The compensation is a weekly payment of an amount:
- (a) worked out under the Return to Work Scheme; and
- (b) worked out, at least in part, by reference to the number of hours per week of remunerative work that the person is able to undertake.
- (6) Clause 221, page 185 (lines 7 to 15), omit paragraph (1)(a), substitute:
- (a) the person satisfies the eligibility criteria in section 199 (persons who are eligible for Special Rate Disability Pension), or has satisfied those criteria during some period of his or her life; and
- (7) Clause 234, page 194 (lines 14 to 23), omit paragraph (1)(a) and the note, substitute:
- (a) if the Commission has accepted liability for the member's death—the amount of the lump sum mentioned in subsection (2); and
- (8) Clause 282, page 226 (line 33) to page 227 (line 6), omit paragraph (a), substitute:
- (a) the person satisfies the eligibility criteria in section 199 (persons who are eligible for Special Rate Disability Pension), or has satisfied those criteria during some period of his or her life; and

Mrs VALE (Hughes—Minister for Veterans' Affairs) (9.40 a.m.)—I move:

That requested amendment (1) be not made.

I am pleased with the progress of the legislation to establish the new Military Rehabilitation and Compensation Scheme. I wish to thank honourable members and senators for their contributions to the debate, especially the Chair of the Senate Foreign Affairs, Defence and Trade Legislation Committee, Senator Sandy Macdonald, and all members of the committee for their contribution. Passage of the **Military Rehabilitation and Compensation Bill 2003** and the **Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003** will enable the government to carry through its commitment to have the new Military Rehabilitation and Compensation Scheme fully operational on 1 July 2004. This is a short time frame, and the cooperation of the Senate and the House of Representatives in progressing this legislation has greatly assisted the government to have the scheme in place on time to meet the needs of the serving members from that date. I am also grateful for the effort of the staff of the Senate committee secretariat, especially over the Christmas period, to keep the report and the legislation on schedule. The absence of a minority report on the bills was welcome. The recommendations were sensible and the government was pleased to accept them as reflections of the thinking of the veterans community and as improvements to the bills.

This legislation will put in place a framework for a repatriation system for the 21st century. Its importance cannot be overstated, and members and senators during this debate have acknowledged the significance of these bills in meeting the nation's commitment to those who serve in the defence of Australia. The strength of support given to the development of the legislation by the ex-service organisations is also testimony to its significance. This process was characterised by close consultation between the government,

Australian Defence Force service members and the ex-service community.

I am pleased to note the early, in-principle support of the legislation by the opposition, subject to the detail of the legislation that emerged from the Senate committee process. The government has accepted the Senate committee's recommendations regarding entitlements for widowed partners of ADF members and review rights for members under the new scheme. As a result of these amendments, in the event that an ADF member is killed, the widowed partner will be eligible for a lump sum death benefit of \$103,000, regardless of whether the member was engaged in warlike, non-warlike or peacetime service.

The government believes that a special level of entitlement for compensation benefits should continue to be available to those members who face increased risk of personal harm through warlike or non-warlike service; nor did the Senate committee demur. The lump sum provided will be in addition to the choice of a war widows pension or an age based lump sum compensation payment, comprehensive health care through the gold card, ancillary benefits, military superannuation entitlements and compensation benefits for any dependent children.

The government has also accepted the recommendation of the Senate committee that all ADF members, regardless of the nature of their service, have the option of applying to the Veterans' Review Board for review of decisions affecting them. This opportunity to present a case in the less formal environment of the VRB has, since 1994, not been available to most ADF members with peacetime service.

Other amendments will improve the operation of a return to work scheme under the Military Rehabilitation and Compensation Bill for veterans receiving the special rate

disability pension safety net payment who can be rehabilitated to undertake more than 10 hours of paid work a week. It is proposed to have the option of using a modified form of the Veterans' Vocational Rehabilitation Scheme, the VVRS, under the VEA. Amendments in the Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill remove unintended disincentives to the VVRS, which will flow through to the new scheme. Amendments will also make it clear that those who are eligible for the special rate disability pension retain the right to certain benefits under the Military Rehabilitation and Compensation Bill, such as telephone allowance or automatic war widows pension for a spouse, even where they return to work in subsequent years. This is consistent with the provisions available under the VEA for VVRS participants.

The emphasis on rehabilitation is evident in the title of the legislation, and our aim is wherever possible to provide the support that injured personnel need to make a full recovery. However, it is not our intention to create a situation where, in seeking to return to work, any member will be disadvantaged, and these amendments address that issue.

The government's other key amendment ensures that injured reservist members are treated equally in calculating the incapacity payments. I note the Senate committee recommended that an increased effort be made to familiarise serving members with the new scheme. I can assure the House and the defence and veteran community that we will be working in the coming months to help members and their families understand the new arrangements. (*Extension of time granted*)

Turning now to the Senate's requests, the government is pleased to accept them with the exception of the request to redefine 'partner' to recognise same sex relationships for the purpose of benefits and entitlements.

Existing ADF policies enable the provision of a range of employer benefits and entitlements to couples who are either married or living in ADF recognised de facto relationships. These policies specifically exclude couples cohabitating in same sex relationships and rely on the Marriage Act and the Sex Discrimination Act.

For the purposes of both the Defence Force Retirement and Death Benefits, the DFRDB, and the Military Superannuation and Benefits Scheme, the MSBS, a spouse is defined as a person of the opposite sex to the member. The Department of Veterans' Affairs does not recognise same sex relationships. The Veterans' Entitlements Act 1986 describes a member of a couple as being a person of the same sex so that neither pensions nor bereavement payments are payable to a same sex partner in the event of a death of a member or a retired member. The Department of Family and Community Services does not recognise same sex domestic relationships. Members of same sex relationships are unable to claim the same level of allowances and payments as their heterosexual counterparts. The legislation in each of these instances reflects government policy, which is to acknowledge the primacy of heterosexual relationships as the basis of the family, the most basic unit in our society and one which the government recognises and will continue to strengthen and encourage. I thank the House.

Mr EDWARDS (Cowan) (9.47 a.m.)—The Labor Party support the **Military Rehabilitation and Compensation Bill 2003** and the next bill we will be dealing with, the **Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003**, and the amendments made by the Senate. There are of course some unsatisfactory elements to the legislation, and we know that the ex-service community is not entirely happy. But, overall, the bills are beneficial,

especially for serving members of the ADF. At the same time, we believe that veterans' interests have been largely protected. Overall, the rationalisation of military compensation into one scheme has to be a good thing in the long term, but we believe there are still many jagged edges. There are a number of issues about which we remain concerned, so we will be watching the bills' operation very closely.

I must say that we are pleased at least to see the policy on war widows sorted out. All widows of Australian Defence Force personnel will now be treated the same. While compensation for the loss of a loved one can never be enough, this package is a significant improvement. We thank, therefore, those Liberal senators who came along with the ALP and overturned their minister's discretionary model.

The fact that there has been a win on this issue can be pretty well entirely credited to Kylie Russell. Kylie Russell is a young woman who lost her husband in Afghanistan. I have immense respect and regard for this gutsy lady. She was not asking for anything for herself but, in the best traditions of the Australian heritage of mateship, she put her hand up to fight for improvements for others. The fact that there has been movement in this area can be entirely attributed to the gutsy performance of this young lady. She campaigned publicly, and she received the support of the Special Air Services and the Special Air Services Association. I believe that they and other members of the defence community have much to claim credit for here.

We also recognise the government's acceptance of our view that administrative review needed to be fairer. Again, the minister's ill-considered model has been rolled, and we are pleased about that. It is to be hoped in time that others in the government

ranks might also look objectively at this legislation. They might consider the needs of Australian Defence Force personnel and future veterans, rather than the blinkered view taken by the minister.

Again, we support the legislation, but the serving and future ex-service community can be assured that the Labor Party will be keeping a very close eye on the operation of this legislation. Should the need arise and should it become evident that this legislation is not doing what the government has claimed that

it will do, we will be more than prepared to intervene in their interests.

Question agreed to.

Mrs VALE (Hughes—Minister for Veterans' Affairs) (9.51 a.m.)—I move:

That requested amendments (2) to (8) be made.

I have addressed these requested amendments in my speech.

Question agreed to.

MILITARY REHABILITATION AND COMPENSATION (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2003

Consideration of Senate Message

Message from the Governor-General recommending appropriation for the bill and proposed amendments announced.

Consideration resumed from 30 March.

Senate's requested amendments—

- (1) Schedule 1, page 27 (after line 35), after item 16, insert:

16A Subsection 23(5)

Repeal the subsection, substitute:

- (5) The rate at which pension is payable to a veteran to whom section 115D applies (veterans working under rehabilitation scheme) is the reduced amount worked out using the following formula:

$$\text{General rate} + \left(14 \times \frac{\text{Reduced daily pension amount worked out under section 115D}}{\text{}} \right)$$

16B Subsection 24(5)

Repeal the subsection, substitute:

- (5) The rate at which pension is payable to a veteran to whom section 115D applies (veterans working under rehabilitation scheme) is the reduced amount worked out using the following formula:

$$\text{General rate} + \left(14 \times \frac{\text{Reduced daily pension amount worked out under section 115D}}{\text{}} \right)$$

16C Application of items 16A and 16B

The amendments made by items 16A and 16B apply from the pension period that begins after those items commence.

- (2) Schedule 1, page 33 (after line 18), after item 39, insert:

39A Section 115D

Repeal the section, substitute:

115D Reduced daily pension amount—pensions under Parts II and IV

Application and overview of this section

- (1) This section applies to a veteran who is engaged in remunerative work of more than 8 hours per week as a result of undertaking a vocational rehabilitation program under the Veterans' Vocational Rehabilitation Program. The section sets out how to work out the veteran's reduced daily pension amount. This amount is used to work out the rate of pension payable under sections 23 and 24.

Note: This section does not apply to certain veterans (see subsections (5) and (6)).

Reduced daily pension amount during the initial period

- (2) A veteran's **reduced daily pension amount** for a pension period that occurs within the initial period is worked out using the following formula:

$$\frac{\text{Veteran's daily above general rate}}{2} \times \left(1 + \frac{\text{Veteran's taper amount}}{\text{Veteran's daily above general rate}} \right)$$

Note 1: Expressions used in this subsection are defined in subsection (7).

Note 2: The Commission can increase a reduced daily pension amount under section 115F.

Reduced daily pension amount during the second period

- (3) A veteran's **reduced daily pension amount** for a pension period that occurs within the second period is worked out using the following formula:

$$\frac{\text{Veteran's daily above general rate}}{2} \times \left(1 + \frac{\text{Veteran's taper amount}}{\text{Veteran's daily above general rate}} \right) \times \left(2 - \frac{\text{CPI amount}}{\text{Veteran's daily above general rate}} \right)$$

Note 1: Expressions used in this subsection are defined in subsection (7).

Note 2: The Commission can increase a reduced daily pension amount under section 115F.

Reduced daily pension amount 5 years after the initial period

- (4) A veteran's **reduced daily pension amount** for a pension period that occurs more than 5 years after the end of the initial period is nil.

Note: The Commission can increase a reduced daily pension amount under section 115F.

Veteran who is unemployed for at least 2 weeks

- (5) This section does not apply to a veteran who is unemployed for a continuous period of at least 2 weeks in respect of the pension periods within that 2 week period.

Veteran who is blinded in both eyes

- (6) This section does not apply to a veteran for a pension period if the veteran is receiving a pension for the period at the special rate because of subsection 24(3).

Definitions

- (7) In this section:

CPI amount means the amount worked out using the following formula:

20

20 – Number of CPI indexation days that have occurred since the beginning of the second period

daily above general rate for a veteran means the rate worked out using the following formula:

$$\frac{\text{Veteran's pension rate on commencement} - \text{General rate}}{14}$$

initial period for a veteran means the period:

- (a) that begins on the day after the day the veteran first commenced remunerative work as a result of undertaking a vocational rehabilitation program; and
- (b) that ends immediately before the first CPI indexation day that occurs more than 2 years after that day.

pension rate on commencement for a veteran means the rate of pension under this Act that was payable to the veteran on the day on which the veteran commenced his or her vocational rehabilitation program.

second period means the period:

- (a) that begins immediately after the initial period; and
- (b) runs for 5 years.

taper amount for a veteran means:

- (a) if the veteran's average weekly hours are 40 hours or more—nil; and
- (b) otherwise—the amount worked out using the following formula:

$$\frac{40 - \text{Veteran's average weekly hours}}{32}$$

39B Subsection 115E(1)

Omit “the application of the pension reduction amount to the rate”, substitute “the application of section 115D in respect of the rate”.

Note: The heading to section 115E is replaced by the heading “**Application for increase in reduced daily pension amount**”.

39C Subsection 115E(2)

Omit “to have the pension reduction amount reduced”, substitute “to have the reduced daily pension amount under section 115D increased”.

39D Subsection 115F(2)

Repeal the subsection, substitute:

If this section applies, the Commission may increase in writing the veteran's reduced daily pension amount under section 115D, for a past, present or future pension period, to the amount that the Commission is satisfied results in the work and pension income rate being equal to the unaffected pension rate.

Mrs VALE (Hughes—Minister for Veterans' Affairs) (9.52 a.m.)—I move:

That the requested amendments be made.

These are either technical amendments or they reflect the changes to the principal bill that have already been covered in my earlier address.

Question agreed to.

**SUPERANNUATION SAFETY
AMENDMENT BILL 2003**

Consideration of Senate Message

Consideration resumed from 10 March.

Senate's amendments—

- (1) Schedule 1, page 61 (after line 2), after item 59, insert:

59A Section 327 (at the end of the definition of *modifiable provision*)

Add:

; or (d) subsection 63(7B), (7C) or (7D).
- (2) Schedule 3, item 1, page 102 (lines 6 to 9), omit the item.
- (3) Schedule 3, item 2, page 102 (lines 10 to 15), omit the item (including the note), substitute:

2 Subsection 66(3)

Repeal the subsection, substitute:

RSA provider and Regulator to be told about the matter

 - (3) Subject to subsection (4), the person must, as soon as practicable after forming the opinion mentioned in paragraph (1)(a):
 - (a) tell the RSA provider about the matter in writing; and
 - (b) if the contravention about which the person has formed the opinion mentioned in paragraph (1)(a) is of such a nature that it may affect the interests of holders of RSAs—tell the Regulator about the matter in writing.
- (4) Schedule 3, item 3, page 102 (lines 18 and 19), omit the heading to subsection (4), substitute:

The person may not have to tell the RSA provider or Regulator about the matter
- (5) Schedule 3, item 3, page 102 (line 21), omit “Regulator”, substitute “RSA provider”.
- (6) Schedule 3, item 3, page 102 (line 24), omit “Regulator”, substitute “RSA provider”.
- (7) Schedule 3, item 3, page 102 (line 27), omit “RSA provider”, substitute “Regulator”.
- (8) Schedule 3, item 3, page 102 (line 30), omit “RSA provider”, substitute “Regulator”.
- (9) Schedule 3, item 3, page 103 (line 1), omit the heading to subsection (5), substitute:

Penalties for misinformation
- (10) Schedule 3, item 3, page 103 (line 5), omit “the Regulator and”.
- (11) Schedule 3, item 3, page 103 (lines 7 and 8), omit “either or both the Regulator and”.
- (12) Schedule 3, item 3, page 103 (after line 13), after subsection (5), insert:
 - (5A) A person (the *first person*) commits an offence if:
 - (a) this section applies to the first person; and
 - (b) the first person is aware of a matter that must, under this section, be told to the Regulator; and
 - (c) the first person tells another person to whom this section applies that the first person has told the Regulator about the matter; and
 - (d) the first person has not done what the first person told the other person he or she had done.

Penalty: Imprisonment for 12 months.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.
- (13) Schedule 3, item 5, page 104 (line 32) to page 105 (line 2), omit the item.

- (14) Schedule 3, item 6, page 105 (lines 3 to 8), omit the item (including the note), substitute:
- 6 Subsection 129(3)**
 Repeal the subsection, substitute:
Trustee and Regulator to be told about the matter
- (3) Subject to subsection (3A), the person must, as soon as practicable after forming the opinion mentioned in paragraph (1)(a):
- (a) tell a trustee of the entity about the matter in writing; and
 - (b) if the contravention about which the person has formed the opinion mentioned in paragraph (1)(a) is of such a nature that it may affect the interests of members or beneficiaries of the entity—tell the Regulator about the matter in writing.
- (15) Schedule 3, item 7, page 105 (lines 11 and 12), omit the heading to subsection (3A), substitute:
- The person may not have to tell a trustee or the Regulator about the matter*
- (16) Schedule 3, item 7, page 105 (line 14), omit “the Regulator”, substitute “a trustee of the entity”.
- (17) Schedule 3, item 7, page 105 (lines 16 and 17), omit “the Regulator”, substitute “a trustee of the entity”.
- (18) Schedule 3, item 7, page 105 (line 20), omit “a trustee of the fund”, substitute “the Regulator”.
- (19) Schedule 3, item 7, page 105 (lines 22 and 23), omit “a trustee of the fund”, substitute “the Regulator”.
- (20) Schedule 3, item 7, page 105 (line 26), omit the heading to subsection (3B), substitute:
- Penalties for misinformation*
- (21) Schedule 3, item 7, page 105 (line 30), omit “the Regulator and”.
- (22) Schedule 3, item 7, page 105 (lines 32 and 33), omit “either or both the Regulator and”.
- (23) Schedule 3, item 7, page 106 (after line 5), after subsection (3B), insert:
- (3C) A person (the *first person*) commits an offence if:
- (a) this section applies to the first person; and
 - (b) the first person is aware of a matter that must, under this section, be told to the Regulator; and
 - (c) the first person tells another person to whom this section applies that the first person has told the Regulator about the matter; and
 - (d) the first person has not done what the first person told the other person he or she had done.
- Penalty: Imprisonment for 12 months.
- Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.
- (24) Schedule 3, item 9, page 107 (line 6), omit “fund”, substitute “entity”.
- (25) Schedule 3, item 9, page 107 (line 9), omit “fund”, substitute “entity”.
- (26) Schedule 3, page 109 (after line 5), after item 10, insert:
- 10C Paragraph 231(1)(b)**
 Repeal the paragraph, substitute:
- (b) where the loss is a result of fraudulent conduct or theft, the amount of the grant of financial assistance shall be 100%.
- (27) Schedule 3, page 109 (after line 5), after item 10, insert:
- 10D After subsection 254(1A)**
 Insert:
- (1B) Regulations made in accordance with subsection (1) and paragraph 31(2)(s) must include:
- (a) a requirement for defined benefit funds to report annually to APRA on the financial status of their funds, including the level of debt or

- surplus, and the details of any shortfall of funds required to pay benefits to members; and
- (b) a requirement for APRA to publish on its website the information received in accordance with paragraph (a).
- (28) Schedule 3, item 14, page 111 (line 2), omit “; and”, substitute “.”.
- (29) Schedule 3, item 14, page 111 (lines 3 to 5), omit paragraph (1)(c).
- (30) Schedule 3, item 14, page 111 (lines 6 to 9), omit subsection (2), substitute:
- Trustee and Regulator to be told about the matter*
- (2) Subject to subsection (3), the person must, as soon as practicable after forming the opinion mentioned in paragraph (1)(a):
- (a) tell a trustee of the fund about the matter in writing; and
- (b) if the contravention about which the person has formed the opinion mentioned in paragraph (1)(a) is of such a nature that it may affect the interests of members or beneficiaries of the fund—tell the Regulator about the matter in writing.
- (31) Schedule 3, item 14, page 111 (lines 10 and 11), omit the heading to subsection (3), substitute:
- The person may not have to tell a trustee or the Regulator about the matter*
- (32) Schedule 3, item 14, page 111 (line 13), omit “the Regulator”, substitute “a trustee of the fund”.
- (33) Schedule 3, item 14, page 111 (lines 15 and 16), omit “the Regulator”, substitute “a trustee of the fund”.
- (34) Schedule 3, item 14, page 111 (line 19), omit “a trustee of the fund”, substitute “the Regulator”.
- (35) Schedule 3, item 14, page 111 (lines 21 and 22), omit “a trustee of the fund”, substitute “the Regulator”.
- (36) Schedule 3, item 14, page 111 (line 25), omit the heading to subsection (4), substitute:
- Penalties for misinformation*
- (37) Schedule 3, item 14, page 111 (line 29), omit “the Regulator and”.
- (38) Schedule 3, item 14, page 111 (lines 31 and 32), omit “either or both the Regulator and”.
- (39) Schedule 3, item 14, page 112 (after line 3), after subsection (4), insert:
- (4A) A person (the **first person**) commits an offence if:
- (a) this section applies to the first person; and
- (b) the first person is aware of a matter that must, under this section, be told to the Regulator; and
- (c) the first person tells another person to whom this section applies that the first person has told the Regulator about the matter; and
- (d) the first person has not done what the first person told the other person he or she had done.
- Penalty: Imprisonment for 12 months.
- Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.
- Mr ROSS CAMERON** (Parramatta—Parliamentary Secretary to the Treasurer) (9.53 a.m.)—I would like to indicate to the House that the government proposes that amendments (1) to (25) and (28) to (39) be agreed to and that amendments (26) and (27) be disagreed to. I suggest, therefore, that it may suit the convenience of the House first to consider amendments (1) to (25) and (28) to (39) and, when those amendments have been disposed of, to consider amendments (26) and (27). I move:
- That amendments (1) to (25) and (28) to (39) be agreed to.

These amendments, which have passed through the Senate, I understand, without opposition, involve the government's response to the Senate Economics Legislation Committee's report on the Superannuation Safety Amendment Bill 2003 and issues raised in the context of recent industry consultations on supporting regulations. The government considered it necessary to move minor amendments to the bill in the Senate. The amendments will strengthen the operation of key aspects of the bill. In particular, they will ensure clarity and appropriate flexibility in the operation of the new trustee licensing regime which is being introduced by the bill. They will be welcomed by industry as being responsive to their concern.

The amendments to the bill extend the regulator's existing powers to modify or exempt trustees from certain provisions in the Superannuation Industry (Supervision) Act 1993—the so-called SI(S) Act—so that they also apply to amendments concerning trustee compliance with equal representation requirements. The amendments clarify the operation of materiality provisions relating to reporting by actuaries and auditors so that it is clear that they apply only to reporting to the regulator and not to trustees. In effect, the amendments will clarify the application of the bill in certain circumstances. They do not alter the requirements placed on trustees.

Question agreed to.

Mr ROSS CAMERON (Parramatta—Parliamentary Secretary to the Treasurer) (9.55 a.m.)—I move:

That amendments (26) and (27) be disagreed to.

The government will not be accepting either of these two amendments moved by Labor and agreed to by the Senate. Amendment (26) deals with the 100 per cent compensation provision, inserting a requirement in the legislation for the government to provide

financial assistance of 100 per cent for superannuation losses due to fraud or theft, and the government will reject the amendment.

Under part 23 of the Superannuation Industry (Supervision) Act 1993, the minister has discretion to grant compensation for losses as a result of fraudulent conduct or theft. In exercising this discretion, the minister may grant financial assistance up to 100 per cent of the determined eligible loss. Ministerial discretion ensures that public interest considerations can be taken into account when determining the level of financial assistance to be paid in the event of theft or fraudulent conduct. Within this framework, it has been longstanding government policy to cap financial assistance provided under part 23 of the SI(S) Act at 90 per cent of the eligible loss.

Payment of less than 100 per cent financial assistance seeks to address moral hazard concerns. In particular, it ensures that fund members bear at least some responsibility for any losses and have incentives to monitor their accounts and check that funds are being managed in a prudent manner. This approach also ensures that the costs of losses resulting from theft or fraudulent conduct are shared equitably between members of funds who have suffered losses and other superannuation fund members through financial assistance levies imposed on all funds.

Capping financial assistance is also consistent with international practice and other government assistance programs. Comparable overseas financial assistance schemes generally limit the compensation paid through either a percentage or a monetary cap. The United Kingdom Pensions Compensation Board limits payment of assistance to 90 per cent of loss suffered except where a person is within 10 years of retirement, where 100 per cent is paid. The OECD reports that countries such as Canada, the

United States and France impose caps on payments, while Japan and the UK provide a percentage based limit on compensation.

The government considers that determining the level of financial assistance should continue to be implemented using the existing arrangements in part 23 of the SI(S) Act. This will ensure that appropriate flexibility in the operation of these provisions is retained. The Senate's amendments to mandate the level of financial assistance would inappropriately limit the minister's ability to take into account public interest considerations when applying government policy.

The government will not be supporting amendment (27) to the Superannuation Safety Amendment Bill 2003 requiring defined benefit funds to report annually to the Australian Prudential Regulation Authority on their financial position and requiring APRA to publish information concerning the financial position of defined benefit funds on its web site. The government considers that the current provisions provide appropriate protection to members and ensure that they have sufficient information upon which to make informed decisions about their superannuation.

The Financial Services Reform Act 2001 and associated regulation already requires information on the management financial position and investment performance of superannuation funds to be provided on at least an annual basis. This information includes audited fund accounts or abridged financial statements and details of fund reserves. In relation to defined benefit funds, trustees are also required to report to members when employer sponsor contributions are less than an actuarially approved amount. The trustee must also tell members of the consequences for the fund of the shortfall and what action the trustee will take in relation to the shortfall.

The Financial Services Reform Act also requires the ongoing disclosure of material changes and significant events to members of superannuation funds, which may include a significant event relating to solvency. In addition, members of the public may also request copies of the audited accounts of a superannuation entity. (*Extension of time granted*) In meeting a request, funds must also provide a copy of the auditor's report, even if this has not been specifically requested.

The introduction of further reporting requirements for defined benefit funds would impose costs on both the funds and APRA for minimal, if any, additional benefit. These costs may make defined benefit funds less attractive to employer sponsors. Labor's amendments would tie defined benefit funds up in further red tape for little or no benefit. The government is opposing the first amendment on the policy ground that it defeats an appropriate sharing of risk. We want to retain the muscle of scrutiny and accountability in the relationship between fund members and fund managers and we believe that the amendment will work to weaken that muscle. At the same time, we believe that there is already provision made for the objectives of the second amendment in the Financial Services Reform Act.

Mr COX (Kingston) (10.02 a.m.)—The shadow minister for retirement incomes will no doubt be disappointed by the government's persistence in rejecting his amendments. The opposition will not be holding the bill up further in pursuit of these issues when it is returned to the Senate. However, the position that the Parliamentary Secretary to the Treasurer has outlined today clearly establishes a policy difference between the government and the Labor Party which we will take to the next election.

Question agreed to.

Mr ROSS CAMERON (Parramatta—Parliamentary Secretary to the Treasurer) (10.03 a.m.)—I present the reasons for the House disagreeing to Senate amendments (26) and (27). I move:

That the reasons be adopted.

Question agreed to.

MIGRATION AMENDMENT (JUDICIAL REVIEW) BILL 2004

Second Reading

Debate resumed from 25 March, on motion by **Mr Hardgrave**:

That this bill be now read a second time.

Mr STEPHEN SMITH (Perth) (10.03 a.m.)—Labor do not oppose the **Migration Amendment (Judicial Review) Bill 2004**. We wish to reserve our position on it, pending consideration by the Senate Legal and Constitutional Legislation Committee. The bill seeks to reintroduce into the migration legislation time limits in respect of judicial review or appeals, and to confirm the exclusive jurisdiction of the Federal Court through the Federal Magistrates Court and the Federal Court itself. In other words, the bill seeks to ensure the exclusion of the capacity of individuals to go to state supreme courts. It also seeks to ensure that merits review occurs prior to any judicial review.

On its face, all these matters are sensible and have as their objective fast and efficient judicial review which does not clog up the courts and which gives people procedural rights. There is certainly no difficulty with requiring a merits review prior to judicial review. In the current context, that of course requires going to the Migration Review Tribunal or the Refugee Review Tribunal prior to going to the Federal Magistrates Court or the Federal Court itself. So far as jurisdiction is concerned, it is obviously sensible to retain the exclusive jurisdiction of the federal courts in migration matters.

The time limits again on the face of it seem sensible—28 days for lodging an appeal after the deemed advice of a migration decision is concerned, and then a further 56 days within which a court has a discretion to extend the timetable in the interests of justice. The difficulty, of course, is that these provisions of the bill essentially relate to what have become known as privative clauses or ouster clauses so far as judicial review of migration decisions is concerned. This legislation needs to be considered in the context of the High Court decision in Plaintiff S157/2002 v. the Commonwealth of Australia, which is the most recent High Court decision in respect of these matters. Without going through that case at length, it is easy to summarise the decision of the High Court in that matter as saying that a privative clause could of course be constitutional but that a privative clause could not operate in respect of decisions that were made without jurisdiction.

The rub, so far as judicial review of migration decisions is concerned, is that that requirement then imposes on the court to effectively engage in a full judicial review in order to determine whether a decision was made with jurisdiction or without jurisdiction. The privative clause issue arises from the general requirement that the parliament can only make laws subject to the Constitution. But we also have the provision of section 75(v) of the Constitution, which provides the High Court with its original jurisdiction.

So there is a clear constitutional issue here. There is also a clear public policy issue. The clear constitutional issue is whether this legislation—which is narrow in its intent and purpose—because it seeks to exclude the capacity of the High Court to entertain an appeal after the 28-day and then the 56-day period, has the effect of rendering the decision unconstitutional. In order to get over the

decision in S157, the bill relates not just to decisions made under the act but to ‘purported decisions’ made under the act. In other words, the bill seeks to get around the S157 High Court decision by saying that these time limits apply not just to decisions made under the Migration Act but to purported decisions. The phrase ‘purported decision’ in the bill is simply a very elegantly drafted way of saying that the bill covers lawful decisions and unlawful decisions—decisions made with jurisdiction and decisions made without jurisdiction. Whilst the expression drafted in the bill may be elegant, it goes to the heart of the bill’s constitutionality.

If a challenge is made to this bill on the basis of the court’s decision in S157, will the bill survive? I say that because it seeks to exclude the original jurisdiction of the High Court by having an ironclad time limit within which an individual aggrieved by a migration decision can make an appeal, or request judicial review to the High Court, on the basis that the decision made was made with want of jurisdiction or was made without lawful authority. That is the constitutional point, and that is a serious point.

The public policy point is whether, as a matter of public policy, it would be a sensible thing in any event to reserve to, for example, the High Court a separate jurisdiction to enable, in extraordinary circumstances, leave to be given for an appeal to be pursued outside of the 28-day and 56-day period. There might be extraordinary circumstances which would warrant such an approach to the High Court. Clearly, that would need to be done using sensible court based restrictions, like leave, written applications, written submissions and time limits so far as the case handling is concerned. So the bill throws up that important constitutional issue—and that needs to be carefully examined—and, secondly, the public policy point of whether it

might actually be in the interests of justice that some separate and special discretion be granted or allowed to enable extraordinary cases to be dealt with where they fall outside the 28-day and 56-day period.

So our suggestion is that this bill be referred to the Senate Legal and Constitutional Committee. That of course is a matter for the Senate, but I am sure that will occur. I noticed the other day, as I am sure the government has, that the Law Council of Australia indicated that this is a bill which the parliament should not rush to adopt. They also suggested that the bill be referred to the Senate Legal and Constitutional Committee.

The minister’s second reading speech makes a number of comments which on the face of them are unobjectionable, and I will read some of them into the record:

The government has grave concerns about the growing number of unmeritorious judicial review applications being made. These have led to increasing costs and delays in the judicial review process. Increased delays have encouraged many applicants to litigate to the maximum regardless of the legal merits. This is solely to delay their departure from Australia.

These concerns need to be addressed urgently. The opposition also shares these concerns and has been exploring ways to streamline judicial review of migration matters.

And that is the case; we have been exploring ways of streamlining judicial review of migration matters, which is why when the leader of the Labor Party, Mark Latham, appointed me as shadow minister for immigration at the end of November last year I made the point, in some of my initial remarks, that we would respond favourably to any suggestions that the government made in this area if they were sensible and positive suggestions. I made that point because the government, unfortunately, has failed over a number of years to really adequately address the issue of timeliness of judicial review and appeal

processes for migration decisions. That has been largely, if not exclusively, as a result of the obsession of the former minister for immigration, now Attorney-General, Mr Rud-dock, with privative causes. That, in my view, was always problematic; it was always going to be a forlorn task. If the then minister for immigration, now Attorney-General, had invested much more time in applying appropriate court based procedures to ensure fast and efficient outcomes of review and appeals, then we would be much better placed than we are now.

I do not want to see the same well-trodden path to the High Court taken again as a result of this bill and the constitutionality of this provision. That is why it is worth while for the parliament to allow the Senate Legal and Constitutional Committee to hear submissions on this point and to determine whether there is a serious concern about the constitutionality of the bill and, secondly, whether a modest or minor amendment might rescue it from that fate.

The minister's second reading speech also makes this point:

The amendments being made by this bill to the Migration Act 1958 follow the completion of the Attorney-General's recent migration litigation review. These changes are straightforward and will have a significant impact on reducing the large numbers of unmeritorious migration related judicial review applications. The government will be announcing its response to other matters in the review shortly.

I hope the Attorney-General, the Minister for Immigration and Multicultural and Indigenous Affairs and the government will make that document public. If one of the reasons for this legislation is the government's receipt of the migration litigation review report—which, it is my understanding, the Attorney-General has had since just before or just after Christmas—then the release of that report would seem to me to help a sensible

public policy discussion in this area to take place, not just in the parliament but in the legal fraternity and the migration fraternity and amongst other people interested in these matters. It would be a helpful contribution. I would not want the Attorney-General not to release that report because in some way the report expressed or implied criticism of his obsession with privative clauses. He should take that on the chin. A most helpful contribution to a serious examination of the detail of this bill would be the release of the migration litigation review.

Before one gets to a judicial review of an administrative decision or a ministerial delegate's decision in the migration area, I think it is important to focus on the original decision and the merits review. Currently we have a system where the minister's delegate will make an original decision, which is subject to appeal to the Migration Review Tribunal or the Refugee Review Tribunal, as the case may be. Given that in recent years most of the focus in the migration area has been on refugee matters, let me restrict my remarks to a decision by a ministerial delegate in a review by the Refugee Review Tribunal. I have made it clear privately and publicly—and I am happy to make it clear in the parliament—that it seems to me that there is a want of confidence, firstly, in the initial decision-making process and, secondly, in the Refugee Review Tribunal's review. There is also clearly a need to attend, as this bill seeks to do, to the backlog of judicial reviews that we find in the courts at the moment. That is why Labor have adopted an approach of saying that, firstly, we believe the Refugee Review Tribunal should be abolished and replaced with what we describe as the Refugee Status Determination Tribunal and, secondly, appeals from that tribunal should go to the Federal Magistrates Service, essentially by way of a one-stop shop. So you would have an effective review by the Refugee Status

Determination Tribunal and then a one-stop approach as far as appeals are concerned.

Let me take those in a logical order. I have become increasingly concerned about the quality of original decisions made by the ministerial delegates in the asylum seeker area. I think one way in which the quality of those decisions can be improved is by making sure the individual asylum seeker is fully aware of the procedures which attend an application for refugee status under the refugee convention, which is why I have indicated that I believe a system of case managing individual asylum seekers will actually assist the quality of the original decision, will assist the efficiency of merits and judicial review and will also, if in the event the outcome is refugee status and settlement in Australia, assist settlement here. If the outcome is rejection of refugee status and a requirement to return to country of origin, it will make the prospects of voluntary return to country of origin better. I envisage a model where individual asylum seekers would be case managed through the process from day one.

There are a number of possibilities as to who might do that case management. I think on its face it is clear that it could not or should not be done by a DIMIA officer; there is a clear conflict of interest there. It could in theory be done by another Commonwealth officer, such as an officer of the Attorney-General's Department. It could be done by an officer of the Human Rights and Equal Opportunity Commission. My own view is that, on balance, it is probably best done by non-government organisations. We have a range of organisations in Australia whose officers have become very experienced in refugee and migration settlement matters. The Red Cross is one example; the Uniting Church another. My view is that it would actually assist the quality of original decision-making processes and improve the efficiency and

quality of merits and subsequent review if case management along these lines were effected from day one. That would include ensuring necessary translators, access to legal advice, access to information about welfare of family et cetera.

The second area which we believe needs to be improved is the merits review process. My own assessment is that there is an ongoing lack of confidence in the Refugee Review Tribunal. If there is an ongoing lack of confidence in an administrative body or a merits review body then there is a danger that the superior courts, the courts of review, will seek to rectify that problem at source rather than focusing on what they should be focusing on: a review which goes to error of law, want of jurisdiction or breach of natural justice.

Our approach is to abolish the Refugee Review Tribunal and replace it with the Refugee Status Determination Tribunal. That would be chaired by a person who is legally qualified. There would be a panel of three, with two community members or community representatives effectively on either side of the legally qualified chairperson. My aspiration or ambition would be to have as the legally qualified person a recently retired state supreme or federal court judge. This would ensure confidence in the tribunal.

Insofar as the community members are concerned, in the usual way we would be looking to the appointment of publicly spirited individuals, people who want to make their contribution to public policy. I have described people who seek appointment or who are appropriate to appointment to a range of Commonwealth bodies as right-thinking members of the community who are publicly spirited and publicly motivated. I do not see any limitation on the community representatives, other than fulfilling that general categorisation. In my view, there is no need

for necessary experience in this particular area. That occurs in the course of appointments to government panels or boards every day of the week.

From the Refugee Status Determination Tribunal so comprised we envisage an appeal to the Federal Magistrates Court on the basis of that effecting a fast, efficient and speedy outcome. I have to acknowledge—and I am quite happy to acknowledge, as I have done privately and publicly in different contexts—that that suggested approach has not necessarily been met with universal acclamation. I have received a range of representations from lawyers or people interested in this area, saying that a preferable approach would be to continue to pursue appeals to the Federal Court and that the focus should be on court based procedures of leave, written applications and written submissions—sensible, court based, timely procedures to ensure that there is an efficiency of review and a removal of the current backlog.

Whilst our preference is to pursue the Federal Magistrates Court option, I have indicated that, because I am open to sensible and positive suggestions in this area, I am happy to parallel track, in a sense. In addition to working on that approach of improving the quality of the original decision by a ministerial delegate, improving the standing and the quality of the merits review through the Refugee Status Determination Tribunal and then having a one-stop shop appeal to the magistrates, I have been looking at and exploring, in consultation with interested people in this area, some sensible procedures which would see speedy appeals to the Federal Court.

As I have previously indicated, the original jurisdiction of the High Court, pursuant to section 75(v) of the Constitution, does require very keen and careful attention in this area. There are a couple of extracts from the

analysis of the S157 case which I think are worthy of putting on the record. They come from an article by George Williams and Duncan Kerr, entitled ‘Review of executive action and the rule of law under the Australian Constitution’—Duncan Kerr of course being my colleague the member for Denison, who also appeared on behalf of the plaintiff in the S157 case. In their article, which appears in 14 PLR at page 219—that is the 2003 edition—they say:

While *Plaintiff S157* dealt with some fundamental constitutional issues, its outcome depended upon the application and development of statutory interpretation principles. These meant that the court did not strike down s 474 of the *Migration Act*. This enabled the court to develop the constitutional basis for judicial review of executive action without actually engaging in the confrontation with the executive that might have occurred if s 474 had been declared invalid. Indeed, such a battle was avoided so adroitly that, despite the court rendering s 474 ineffective in a wide category of cases and indicating that any future legislative attempts to remove the possibility of judicial review must fail, federal Immigration Minister Ruddock still felt able to claim that the government had achieved a “win” in the case. This illustrates how the decision in *Plaintiff S157*, like that of the United States Supreme Court in *Marbury v Madison*, can be seen as “a Solomonic blend of diplomacy and defiance”.

Ultimately, a decision like that in *Plaintiff S157* says much about the role of the High Court in Australia’s constitutional system. As in the *Communist Party Case*, the High Court reached a conclusion that upheld its own capacity to exercise a power of judicial review, and in doing so emphasised the centrality of its role to the maintenance of the rule of law in Australia. In *Marbury v Madison*, Marshall CJ stated (at 177): “It is emphatically the province and duty of the judicial department to say what the law is”. In *Plaintiff S157*, the joint judgment of Gaudron, McHugh, Gummow, Kirby and Hayne JJ concluded with the following words (at 474):

In any written constitution, where there are disputes over such matters, there must be an au-

thoritative decision-maker. Under the *Constitution* of the Commonwealth the ultimate decision-maker in all matters where there is a contest, is this court. The court must be obedient to its constitutional function. In the end, pursuant to s 75 of the *Constitution*, this limits the powers of the parliament or of the executive to avoid, or confine, judicial review.

That, in my view, goes right to the heart of this bill. It is that issue which is central to my concern that the bill itself may not be constitutional. The time limit imposed on the bill has the effect of seeking to exclude the original jurisdiction of the High Court, pursuant to section 75(v), and would seek to exclude the jurisdiction of the High Court to review a migration decision where, on its face, the bill acknowledges that that decision could be—to use the code in the bill—a purported decision which is in reality an unlawful decision. I think there are very grave concerns that, if there is a challenge to the High Court on this legislation as it now stands, following S157 there is a realistic possibility, chance or prospect that the High Court might say that the bill seeks to exclude the capacity of the High Court, in its original jurisdiction under section 75(v), to review a decision where that decision of itself was unlawful because it was made for want of jurisdiction.

I think the Senate committee should explore not only that particular issue but also whether an amendment to the bill which left to the High Court a capacity to hear cases out of time—in extraordinary circumstances, subject to rigorous procedures—might, firstly, avoid that constitutional issue and, secondly, catch those cases where because of extraordinary circumstances an individual was on the receiving end of essentially an unlawful decision which the courts would want to sensibly review.

That goes to the heart of the issue and is consistent with the minister's second reading speech in which he said that we had indi-

cated our concern about these matters generally and were exploring options. I do not see any great point scoring to be effected here. In my view, I have been rightly critical of the obsession of the former minister—the current Attorney-General—with privative clauses. That was always a problematic and forlorn route that he chose which has compounded the felony in this area. I am also, in my view, rightly critical of his failure—and I hope it is not yet a refusal—to release the government's migration review litigation report. That would be a helpful contribution to sensible, detailed consideration in this area.

I do not see this in any way as being a great party political matter that is going to turn the minds of the community in the coming months. I think the most important thing to do is make sure that we get it right. The important thing to do is make sure that we do respect and acknowledge the fact that, whilst we make laws through this parliament, those laws must be subject to the Constitution and, whether we like it or not, part of that Constitution is that the High Court has an original jurisdiction to review ministerial or administrative decisions. If we wanted to, regrettably, tread that well-trodden path again, which the Attorney-General has forced us to do in the past through his obsessions, we would rush this bill through without judgment or cause for thought. There may well be a modest amendment to this bill which will rescue the question mark over its constitutionality and also make sure that, in very extraordinary circumstances, someone who might be on the receiving end of an unlawful decision actually gets a go before one of our courts.

Mr HAASE (Kalgoorlie) (10.32 a.m.)—I am quite astounded that my colleague the member for Perth, in the first instance, asserts that Labor agree with the **Migration Amendment (Judicial Review) Bill 2004** but then goes on to give us a litany of reasons

why they do not. I am surprised and disappointed that, given the obvious need for this legislation, so many causes for filibustering have been invented. But I am assured of one thing: the people of Australia have good cause to often be disappointed in their elected representatives and their performance in this place. As I go around my very large electorate, which is approximately one-third of the Australian landmass, I find that people are simply interested in their elected representatives obtaining outcomes that they believe will change situations, will right what they perceive to be wrongs in the main and give solace to those people who deserve it.

I am therefore disappointed to learn that there is such deep concern for the legalese of this situation and so little concern for the very necessary outcomes. These are outcomes that, generally speaking, the majority of Australians want to see effected as quickly as possible—that is, to reduce the inordinate period of time that people who have arrived in this country uninvited, unannounced, illegally and purporting to be refugees may enjoy our hospitality whilst going through the legal system, time and time again appealing decisions that are made in the interest of law and time and time again having the opportunity to appeal once more. They then further frustrate the people of Australia by complaining that they are held in unreasonable conditions for an unreasonable period of time before achieving what was incredibly consistently their original intent, which was to simply jump the queue as a refugee or gain great advantage for a particular family in Australia—the chosen destination by the majority of people in the world who suffer deprivation and lack of democracy et cetera.

Some 14 per cent of my constituents live in an environment that is far more difficult and far less comfortable than the environment enjoyed by refugees or purported refugees residing in detention centres around this

country. I refer to my remote community Indigenous people, who do not have the luxury of meals being prepared for them each day, the luxury of air-conditioned comfort, the luxury of immediate medical service, the luxury of tailored education and the luxury of every manner of counselling and support afforded to the refugees or people seeking refugee status in this country.

Mr Organ—Have you ever been to a detention centre?

Mr HAASE—One of those staunch, ill-informed opposition members inquires about whether I have been to any detention centres. He is obviously ignorant of the fact that I have the Port Hedland Detention Centre in my electorate and also the previously active Curtin Detention Centre, which I visited most frequently—and I saw people who had every facility afforded to them except their absolute freedom. I saw those people and I spoke with those people, and I understood those people when they expressed their extreme desire to wait just as long as it would take to get a permanent foothold in Australia—because that is what they want. When they are confronted with every piece of evidence indicating that the political regime has changed in their country of origin—that they are clearly under no threat; that they clearly have no reason not to be returned to their country of origin—they cling with every last fibre to the legal opportunities that are extended to them under the system of Australian law. They know full well that every day they spend in a situation where they have money, entertainment, airconditioning, security, food, health, education—all things that they are deprived of in their country of origin, I might add—they are happy to stay there, waiting out the process and just enjoying every ounce of hospitality that is afforded to them.

The people of my electorate cannot understand why we as a government simply do not get on with the job of changing the laws so as to make sure that these people, as soon as it is determined that they have no legal right to claim refugee status, are returned to their country of origin as quickly as possible. I say again that the people of my electorate are sick and tired of those in the opposition who would filibuster and create circumstances whereby that hospitality, which is absolutely taken advantage of to the extreme, continues to be extended. It is Australians who ought to be important in the minds of the opposition. It is Australian welfare for the truly needy—the underprivileged—that is needed. It is Australian jobs that are needed, not more refugee Australians to take up positions—positions that are often, for those who have not yet successfully gone through the system and are out of detention, filled by people who have no legal status, who repeatedly work in the black market and create situations that are often above the law. They are situations that we regret but seem to have no control over because a number of members of this House—less than 50 per cent of them—would thwart and filibuster and be far more sympathetic, it would seem, to those illegal arrivals than they are to the citizens of their own country.

I think being soft on border protection generally is a crying shame, and I just know that the majority of Australians want the job progressed to the point where we can pass legislation that will put an end to this filibustering. They want legislation that will close the loopholes and determine a period of time within which persons seeking refugee status and permanent residency will have to work, so reducing the time, effort and money that is spent on unreasonable claims for refugee status. There are people whose claims have been proven to be false yet, because of loopholes in the legislation, they are allowed to

appeal and appeal and appeal. My people are sick of it. They want change and they want change quickly.

Therefore, this bill, which will close current legal loopholes and give some return to the original intent of the legislation, is well and truly overdue. Even though, as I said, the Labor Party purports to agree with this legislation—and then goes on to explain every reason why it should be delayed—that same opposition group proposes that our borders be softened even more. So there might be a greater number of people taking advantage of this current situation where times can be extended! We have a situation where the Labor Party proposes that the Navy be taken off the task of patrolling our borders at sea, to be replaced with what has been referred to by Minister Downer as a water taxi service—a border protection service that is so soft that a better alternative might be that we put telephone boxes on the beach.

Mr Griffin—Mr Deputy Speaker, I rise on a point of relevance. He is rubbishing on about a whole lot of things that are not part of the legislation.

The DEPUTY SPEAKER (Hon. B.C. Scott)—The member for Kalgoorlie may be wide in his comments, but I believe he is still relevant to the bill before the House.

Mr HAASE—Thank you, Mr Deputy Speaker. I certainly declare its relevance inasmuch as this legislation will be so necessary if ever, God forbid, this nation has to suffer a Labor Party in government. With the introduction of Labor's solutions to border protection we would have an even greater number of persons seeking refugee status. If this legislation is held up by reference to Senate committees, it would of course become more important because of a greater number of persons seeking the support of the Australian legislation as it stands and is effected today.

There are many reasons for getting on with the job of introducing this legislation sooner rather than later, because we have a huge number of persons there trying to thwart the current legislation and—without justification—seek review of their status and continue to appeal. We believe the cost savings resulting from this bill will be some \$7 million per annum. That is \$7 million that could be spent on other things—justifiable expenditure, in areas that the people of Australia want attended to, expenditure to improve their health situations, their educational situations et cetera. They do not want to spend money unnecessarily on people who seek refuge in this country outside the guidelines of the UNHCR.

If we hold the view that the UNHCR is a group that can reasonably assess the status of individuals and whether or not they deserve refugee status in this country and we then look at the number of claimants who appeal the decisions of UNHCR and go on in an arrogant and unjust manner to look for every legal loophole that the law of this country provides we find a grossly unjust situation. I for one believe that the UNHCR does a good job and its decisions ought to be final. If we put legislation in place that reduces the number of appeals possible and reduces the amount of time that people can survive in the appeal process and the costs involved in attending to such appeals then we will have an outcome that is desirable for the majority of Australians.

After all, I believe that that is our task in this place—to right wrongs and to create laws that allow behaviour that is better and more desirable for the people of Australia. After all, this House is for Australians. It is not designed to make life easier for those who would come to this country illegally and then abuse our laws in order to prolong their period of stay. Given the importance of this amendment in making the migration review

process fairer, faster and more efficient for all concerned, I therefore urge that this bill be proclaimed and commence as soon as possible. I commend the Migration Amendment (Judicial Review) Bill 2004 to the House.

Mr ORGAN (Cunningham) (10.47 a.m.)—The **Migration Amendment (Judicial Review) Bill 2004** represents another attempt by the Howard government to divide the Australian community on immigration matters. It should perhaps be retitled the ‘let them rot in hell’ bill or the ‘let them rot in prison’ bill. We have just heard from the member for Kalgoorlie a statement—an assertion almost—that our desert prisons are somehow luxurious resorts where the inmates are just having a wonderful time. I suggest that the member revisit Port Hedland and other detention centres and actually sit down and talk to some of the people in them, because I have heard all manner of stories of what goes on in those places. People are depressed, they are drugged up and they are attempting suicide. They just want their freedom. It is not just about colour TVs and square meals; it is about freedom. It is about some sort of certainty. They just want to lead normal lives.

The member for Kalgoorlie has said that what we should be considering there is what is best for the people of Australia. Well, the people of Australia want us to do the right thing. They want us to take care of basic human rights. What we are doing over there in places like Port Hedland is not taking care of basic human rights. I suggest that the member for Kalgoorlie does not have a clue about what is going on in his own backyard—his own detention centre. Some of the comments he has made here today about these people are disgraceful. It is quite legal for people to seek asylum in Australia; to refer to them as ‘illegals’ is wrong. I think we have to remember there are men, women and children

over there—ordinary people just like you and me—who need to be taken care of, and we are not doing that. To then get up and criticise the UNHCR is a further indication of the disgraceful attitude of this government. We saw just last week how the government refused to adopt the UN's anti-torture protocol.

Mr Haase—Mr Deputy Speaker, I rise on a point of order. The speaker puts into *Hansard* a falsehood that I have criticised the UNHCR.

The DEPUTY SPEAKER (Hon. B.C. Scott)—What is your point of order?

Mr Haase—That I have been incorrectly represented.

The DEPUTY SPEAKER—There is no point of order.

Mr ORGAN—The government's recent refusal to adopt the UN anti-torture protocol is further evidence that this government basically does not want the truth about the asylum seekers and immigration detention centres to be let out into the public, and this bill is simply going further down that path. This time, via this bill, it is quite clear that this government is seeking to reduce access to appeals by asylum seekers by the use of restrictive time limits. The purpose of this bill is to reduce the volume of migration cases brought before the courts by widening the operation of the provisions of the Migration Act that restrict access to judicial review of administrative decisions made under the act.

The Howard coalition government knows that immigration is an issue on which it is able to play the blame game and score cheap political points. The Attorney-General has claimed that immigration appeals have disastrously harmed the court system. Australia's ability to provide justice generally is, according to him, now in danger. What a load of rubbish. The government has played political chess with people's lives on this issue for far too long, and the Greens will not stand by

and allow the government to undermine—with this discriminatory piece of legislation—the rights of refugees and asylum seekers once again. The Greens condemn the government for this bill. I suppose the only thing I can agree with the member for Kalgoorlie on is that he pointed out that once again, rather unfortunately, the opposition spokesman on this bill raised many issues of concern over its content and implications yet nevertheless indicated the opposition would be supporting the bill. Frankly, I am getting used to this, but as I said it is disheartening to sit here and observe the Labor Party's weakness in this area.

As their rationale, the government claim that they have grave concerns about the growing number of so-called 'unmeritorious' judicial review applications being lodged. The Attorney-General even went so far as to argue that these appeals are unlawful. I suggest that the applications are both meritorious and lawful. I know that this government love to describe anything relating to asylum seekers as unlawful, because it helps them sell their flawed and divisive message to the Australian public, but I would have expected more from the Attorney-General, given that he is a lawyer himself. If a person is within their rights to lodge an appeal to a higher court, how can that possibly be considered unlawful? Such a statement by this nation's Attorney-General is completely nonsensical—and we heard the previous speaker raising the word 'unlawfulness' again.

The government also claim that appeals have led to increased costs and delays in the judicial review process, but they fail to acknowledge the responsibility that they hold in this scenario. They claim the proposed changes in this bill will reduce their litigation costs by about \$5 million to \$7 million per year, supposedly to save the taxpayer money. But it is laughable that this government claim to be concerned about expenditure in

the area of migration matters when they have so blatantly wasted enormous amounts of money on their Fortress Australia program. The Greens cannot condone people's rights being eroded simply because the government want to play the 'save the taxpayer' card. We all know this government are being disingenuous when they claim to be concerned about expending taxpayers' money in this area while wasting an exorbitant amount of that money propping up an inhumane mandatory detention centre network which even extends beyond our shores.

In his second reading speech to this bill, the Minister for Citizenship and Multicultural Affairs stated the following with regard to the issue of the increasing use of the Commonwealth courts by refugees and asylum seekers:

These statistics do speak for themselves. In 1995-96 there were 596 judicial review applications before the Commonwealth courts, compared with approximately 6,900 in 2002-03. That is an exponential growth. As a consequence, the litigation expenditure for my department exceeded \$19 million in 2002-03.

It is therefore ironic that the government are advertising the fact that this enormous growth in litigation and expenditure has only occurred since they came to power and that it is entirely of their own making—it is their fault. Last year, a government report revealed that the federal government's spending on legal services is now \$243 million—an increase of \$100 million in four years. This government have taken such a draconian approach to the immigration portfolio that more and more people have been forced to take action in the higher courts. The minister is right—the statistics certainly do speak for themselves, and I am glad that he mentioned those statistics in his second reading speech.

The government have created a monster and now they want to blame others for it.

Most of all, they want to blame the poor unfortunate souls who are languishing in our desert detention centres—the men, women and children who, as each day passes, become more despondent and depressed concerning their ultimate fate and their treatment by this government. The government want to blame people such as Muhammad Qasim, a 29-year-old Kashmiri man who has been in Australian immigration detention centres for five years and five months; who is claiming refugee status; who has no place to go to because India will not accept him; and who just wants to get on with leading a normal life. Yet this government will not allow that. This heartless government are happy to see him rot in an Australian detention centre, which is nothing less than a jail, a prison, and deny him any avenue of escape from this torture. That is right: I use the word 'torture', for the treatment of Mr Qasim by this government is nothing less than inhumane.

The amendments proposed by the government in this bill will undermine people's rights in the following key procedural elements of the migration judicial review scheme. Firstly, they will place time limits on judicial review applications; secondly, only the High Court, the Federal Court and the Federal Magistrates Court will be able to hear judicial review of migration applications; and, thirdly, an applicant will not be able to seek judicial review if merits review of the primary decision is available. It is widely accepted that the number of matters filed in the High Court has exploded, due to the changes made to the Migration Act, under which the federal government attempted to oust the jurisdiction of the courts, particularly the Federal Court, to hear appeals on merits from the Refugee Review Tribunal.

The Migration Legislation Amendment (Judicial Review) Act 1990 introduced into the Migration Act a provision of the type that is known as a privative, or ouster, clause. A

privative clause in an act is drafted as a fetter on the right of judicial review by a court, including the High Court, in relation to certain decisions made under that act. The privative clause provision in the Migration Act is constituted by section 474 of that act. The only avenue for those who wish to appeal is to take their case straight to the High Court, whose jurisdiction in immigration could not be taken away totally by legislation because the jurisdiction is founded in the Constitution. Applicants who get refused in the tribunal can go directly to the High Court, seeking a constitutional writ for review. In 2001-02 there were 300 applications for constitutional writs immigration cases. In the following year, 2002-03, this had shot up to 2,131 applications.

In essence, the High Court will continue to be swamped by immigration cases, unless the federal government relents from its determination to stop refugee applicants from applying to lower courts and to stop the High Court from sending cases back to the lower courts. Section 474 of the Migration Act applies to both the High Court and the Federal Court. However, the clause is arguably of greater significance to the High Court than the Federal Court. Generally, parliament may determine the judicial review jurisdiction of the Federal Court. However, the judicial review jurisdiction of the High Court is constitutionally entrenched. While the jurisdiction is entrenched, it may be circumvented by a privative clause.

Section 474 of the Migration Act, which came into force in October 2001, says that all administrative decisions: (a) are final and conclusive; (b) must not be challenged, appealed against, reviewed, quashed or called in question in any court; and (c) are not subject to prohibition, mandamus, injunction, declaration or certiorari in any court on any account. Though no doubt it is an irritant to the Attorney-General, the parliament cannot

take away the High Court's original jurisdiction set out in the Constitution. In Australia, privative clauses date back to 1904, when the Commonwealth attempted to virtually eliminate the High Court's jurisdiction to review decisions of the Arbitration Court. The court unequivocally stated that the privative clause had no effect at all on the court's constitutional rights to judicial review, sparking a political and judicial debate for the next 40 years as to the parliament's ability to circumscribe judicial review.

In the report of the Senate Legal and Constitutional Legislation Committee on the *Migration Legislation Amendment Bill (No. 5) 1997* the members of the minority stated that the privative clause:

... defeats the purposes for which the Federal Court of Australia was, in part, established, namely as a court designed to relieve the burden on the High Court arising from the handling of immigration law cases.

They also commented that the proposed amendments were contrary to the desired trend 'towards access to justice and the expression of clearer Commonwealth law'.

The validity of section 474 of the Migration Act was considered by the full High Court in *Plaintiff S157/2002 v. The Commonwealth*. In that case the plaintiff argued that section 474, read literally, ousted the jurisdiction of the High Court and was therefore inconsistent with paragraph 75(v) of the Constitution, making it invalid. In essence, the High Court held in *Plaintiff S157's* case that the words of section 474 could not possibly refer to challenges against rulings by the refugee tribunal on the ground that the tribunal acted outside its jurisdiction. It held that a tribunal cannot determine its own jurisdiction without oversight by a higher court. A decision would involve jurisdictional error if it related to a matter that was not within the subject matter conferred by the act. A failure to satisfy the principles of

natural justice was another way a decision might involve 'jurisdictional error' as it would be considered to involve an excess of jurisdiction. Ironically, the government's attempt to oust the jurisdiction of the courts has resulted in an explosion of cases which will involve complex legal issues.

Some in the House and in the public may wonder why I previously referred to a case where the plaintiff was called S157. As Crispin Hull pointed out in his article in the *Canberra Times* on this subject back in August 2003:

... the Migration Act does not permit the naming of people applying for protection visas—better to have you think that they are not human, but just numbers.

The government have stated that their objective in introducing the bill is to decrease delays in migration litigation while giving applicants an opportunity to challenge migration decisions. It follows the review of migration legislation, which was established by the government in 2003.

The opposition have previously called for the release of the recommendations of the migration litigation review, from which the proposals in this bill have come. I echo this call. The Australian people have the right to know what the government's plans are with regard to the review. The Greens believe that there is obviously a problem with too many migration cases appearing before the higher courts, but the seeking to further undermine the rights of asylum seekers is not the way in which to address it. I believe the opposition are planning to send this proposed legislation to a Senate committee for consideration. Although the Greens are of the opinion that this legislation is fundamentally flawed—and, as the member for Perth has pointed out in this debate, the opposition also believe that this bill is most likely unconstitutional—I nevertheless commend the opposition if they

choose to take this path of action in the other place.

The minister sums up in his second reading speech by saying:

By strengthening the procedural amendments the government is removing the incentive for an applicant to pursue litigation as an end in itself—to delay their departure from Australia.

In other words, the government are, in essence, once again seeking to erode people's rights under the law in order to more successfully get rid of the people they do not want in this country due to the fact that they—that is, the government—are pursuing a key political aim. The minister's words very much reflect the words we have heard here this morning from the member for Kalgoorlie when he stated that people, in his opinion, are basically happy to stay in those immigration detention centres and that that is why they are pursuing some of these legal avenues. I can assure the member for Kalgoorlie and others that every one of those people in those detention centres would love to be out of those walls and out from behind the razor wire as soon as possible. That is something that cannot be denied.

This legalistic bill has a very clear political motive. The government have proven themselves willing to play legal and political games with this portfolio without shame and without concern for the humanity of the issue. The government's attempt at excluding parts of Northern Australia from our migration zone is an absolute disgrace, though consistent with their performance in this area of decision making more generally. The government have chosen this path because they wish to avoid judicial scrutiny and review of their actions with regard to asylum seekers; they wish to avoid or minimise scrutiny and accountability for their actions. As I said, the recent decision not to support the UN protocol on torture or to allow a UN subcommittee

to visit Australia independently and visit our immigration detention centres to assess the conditions of the detainees is further proof of the government's refusal to be open and accountable about this issue. It is in this context that the government aim to yet again undermine the rights of asylum seekers. They have proven time and time again that they are not to be trusted on this issue.

In closing, I would like to point out how I was shocked to read a comment the Minister for Immigration and Multicultural and Indigenous Affairs made in the media recently, where she stated:

... Australia is a country that has always welcomed refugees and it is a crying shame that some in the debate over the last couple of years for their own political ends have sought to teach Australian children that their own country doesn't welcome people in need, that their own country is a racist country in terms of its immigration policy and in particular in terms of refugees.

This comment left me somewhat speechless. While I recognise that the government in recent weeks have made some good efforts to increase the refugee intake—and I welcome those recent announcements—nevertheless the issue of our detention centres and the way in which asylum seekers and refugees are treated within those detention centres is a shame and a blight upon this country. I am constantly stunned by the levels to which the government will stoop in order to maintain—

Mr Hardgrave—What do you want to do? Let them all out?

Mr ORGAN—As the minister suggests, yes, I would suggest—

Mr Hardgrave—That's the Greens' position.

Mr ORGAN—that the people be released into the community. I sincerely hope that the government are not given the opportunity to disgrace the Australian people any further

past the next federal election with regard to this matter. We need to treat these people more humanely. In the past, refugees came to our country and they were processed for a couple of weeks and put into our communities prior to the decision on their long-term suitability—

Mr Hardgrave—How many million do you want here?

Mr ORGAN—We are talking about only a thousand people. So I would recommend that the government treat this issue in a more humane way rather than in the disgraceful manner in which they are proceeding.

Mr KERR (Denison) (11.07 a.m.)—I will speak only briefly on the substance of this legislation but will add some short remarks in relation to the legal issues that my friend and colleague the member for Perth outlined as concerning the opposition. In broad terms, no-one would object to a fair time limit being imposed on a period for which a person can bring an appeal claiming that an administrative law decision adverse to them was infected by an error that requires judicial review. The question of what is a fair time limit, however, is obviously a contentious one. The [Migration Amendment \(Judicial Review\) Bill 2004](#) provides for a period of 35 days from the date of a deemed receipt of the decision and then a further period of some 58 days where a court can permit—on proper grounds being shown for exceptional circumstances—an extension of that original 35 days. Thus there is a period of about three months proposed by the bill, after which no judicial review would be possible—were this bill to be passed and were it to be constitutionally valid—and no determination could be made to overturn a decision made without jurisdiction, unlawfully, in bad faith or even as a result of fraud.

The first question is whether the proposed time limits in general are fair and apt. That is

a matter that ought to be considered by the Senate in its review. Thirty-five days from the date of a deemed receipt of a decision is not really 35 days because, for various reasons, the actual receipt of notification of the decision could well be after the time at which the law, as provided in the Migration Act, deems that receipt to have occurred. There will be instances emerging from time to time where a person's actual knowledge of a notification of a decision that they would wish to appeal arises at a time which would give them virtually no opportunity to consult lawyers and to prepare the necessary papers to take their matter before a court. That is recognised, of course, by the provision allowing some extension in exceptional circumstances.

However, whether or not 35 days is a practical period of time to enable a person who receives an adverse decision to take legal advice and to have his or her solicitors or other representatives prepare the necessary papers and file them is a nice point. Many legal firms do not operate so effectively as to permit that. The circumstances of many applicants are that they have no English, they may not be aware of the nature of the correspondence that they receive, they may need translation between them and their solicitors and their solicitors may be dealing with complex issues of law, perhaps for the first time. Although there are some firms which specialise in this area, many do not and would not know where to start. Whether 35 days in those circumstances is an appropriate first date of cut-off I think needs some examination. It may well be too short. Whether three months in general terms is an appropriate period to cut off all applications is similarly a matter which requires some attention.

But let us concede, for the sake of argument in this House, that in general those time lines might be thought to be apt in the large

majority of cases. Assuming that, there could be no broad objection to a principle that says that somebody must bring an application within a reasonable period of time for their matter to be the subject of judicial review.

However, the constitutional question arises because, outside the general provisions of statutory entitlements that this parliament is free to create and rescind, the High Court of Australia has a constitutional responsibility given to it by section 75 of the Constitution to hear applications which claim that an officer of the Commonwealth—that is, a bureaucrat acting in the name of the Commonwealth or the minister—has made a decision in a way which would entitle the applicant to have the decision set aside as being infected by jurisdictional error. A shorthand way of explaining that is to say that if a decision is so wrong as to be void or voidable, if a decision is so in error as to go beyond the powers that the parliament has properly conferred on that decision maker, the person about whom the decision is made has a right to bring the matter before the High Court of Australia and have that issue determined. Of course, that right is a fundamental element of what we all uphold in this parliament—there are some exceptions, perhaps, but I think the vast majority of us do—as a fundamental component of the rule of law.

The rule of law is nothing more or less than saying that all administrative decision makers in this country are obliged to follow the law, and any person—citizen or otherwise—who is adversely affected by a wrongful decision is entitled to have that wrongful decision set aside by a court. The High Court has the constitutional responsibility, through a constitutional guarantee underpinned by the rule of law, to ensure that that can occur. Section 75(v) of the Constitution—inserted in the Australian Constitution by its framers in the lead-up to our movement to a federation in 1901—explicitly adopted a frame-

work in the Constitution which remedied a defect in the United States Constitution revealed in the case of *Marbury v. Madison*, where it was held that the United States Constitution had not given that power to the Supreme Court of the United States. So the framers of our Constitution deliberately conferred on the High Court of Australia that right and that power—a power which has been exercised through the more than 100 years of our federation to protect citizens and noncitizens alike and to ensure that decision makers comply with the law.

So, in those circumstances, how can the High Court deal with a provision that says there is a fixed and inflexible time limit from a deemed date of receipt of a notice if an applicant comes before them in circumstances which ordinarily would merit an entitlement for review and where the High Court can see that those circumstances of delay are no fault of the applicant? In Plaintiff S157, a case that has been referred to by the member for Perth and other speakers in this House, the Commonwealth argued that a 28-day period from the date of the actual receipt of a decision could be enacted by this parliament as an absolute bar to the High Court's hearing of an application for review. Responding to that, the plaintiff in that case argued that such a provision was unconstitutional.

The High Court did not have to address that particular argument, because it read section 474 of the Migration Act as having no effect in relation to what it called purported decisions—that is, decisions which, whilst asserted by the decision maker to be decisions made under the act, were in fact decisions not authorised by law. So the High Court said that, where a person claimed that the decision was not made in accordance with law, the 28-day period simply did not come into effect. The claim was that there was no actual decision according to law, rather a purported decision, and that the 28-

day period did not apply to purported decisions.

Now the government has changed the bar on the High Court's hearing of such matters by proposing that the new provisions apply not only to actual decisions made under the act but also to purported decisions. It has not gone so far as to try to prevent review of those purported decisions because the High Court in every instance of the judges hearing the matter indicated that, were it to do so, such a law would be struck down by the court. It made it unambiguously plain that that was the case.

The new provisions say that time limits apply not only to decisions under the act but also to purported decisions. That then means that at some stage in the future it is inevitable that an instance will arise where the court will have to consider the arguments which it did not need to deal with in Plaintiff S157. There are two issues—firstly, whether this parliament has any power to pass a law which places any restriction on the time in which the High Court of Australia can exercise its constitutional guarantee rights under section 75(v). That question was agitated in the High Court.

The Solicitor-General was asked under what head of power the parliament had purported to act. He indicated that it would be under the incidental powers relating to various procedures of the court. That was met with some scepticism in argument by members of the court, but, as I say, an ultimate decision did not need to be made. The unhappy reception of some of the arguments advanced by the Solicitor-General might give rise at least to an apprehension amongst the Commonwealth's advisers that that is a live issue still—that is, whether this parliament can set any period at all when the High Court has an entrenched constitutional right to guarantee judicial review or whether it is

indeed for the court to determine for itself the circumstances in which that authority would be exercised.

The second issue is subsidiary to that—that is, if the Commonwealth does have power, it can only have power under the incidental provisions of the Constitution. One of the constraints on the use of the incidental provisions of Commonwealth powers of legislation is that they can be only proportional to the circumstances in which the power is exercised. This is a proportionality test. This arose in *Davis* and the Commonwealth where, under the incidental powers, the Commonwealth made certain laws which created offences with respect to the use of Commonwealth logos in order to protect the bicentennial celebrations. Ultimately, the High Court struck down those laws as being disproportionate to the inherent power of nationhood and the proportionality requirements. So, if there is any power that would go to the right of the parliament to set limits, those limits must be proportionate. But proportionate to what? They must be proportionate to the constitutional power of the court to exercise its rule of law functions to supervise the conduct of the executive.

Because of the way in which an absolute cut-off has been expressed, I believe it is most doubtful that the High Court would regard those provisions as constitutionally valid. Why? Firstly, because those provisions relate not to the actual receipt of the notice but to the deemed receipt, so those provisions provide an absolute cut-off to a person who has not in fact been notified of a decision. A deemed receipt may never be received. After the whole period in which a person has been deemed to receive a notice, even if he or she can show that they never actually received the notice, the Commonwealth wishes to pass a law which says even in those circumstances, you cannot be heard to complain that the decision which now af-

fects you was made invalidly. I suspect that the High Court would say that that is an invalid and disproportionate way for the Commonwealth to legislate which offends the responsibility under the Constitution, given to the High Court by section 75(v).

Secondly, you can imagine many examples, even where a person has actual receipt, where it would be manifestly unfair to apply such an absolute deadline. For example, assume that somebody receives a notice but then suffers a car accident and is hospitalised through that period where the cut-off comes into effect. Is it in those circumstances apt that our law prevents that person from agitating subsequently on the legality or otherwise of a decision which adversely affects them? To take another example: let us assume that the decision was actuated by malice and fraud and that is later discovered, a fact that could not have been known to the applicant even if he received notice—for example, if a decision maker takes a bribe or acts in a way which is contrary to law, criminal and adverse to the person—and the circumstances which give rise to that being known emerge only after three months. Is it to be said that the High Court cannot then pursue an entitlement to review that decision which has adversely affected the person? For those kinds of circumstances I think it would be almost inevitable that, unless the Senate includes a provision that enables the High Court to examine such extraordinary and exceptional circumstances and to have a filter—albeit perhaps a tight filter, so that the general provision is not absolute—I think it is almost inevitable that the High Court can say, ‘We cannot, consistent with our constitutional duty and our responsibility to uphold the rule of law, allow such laws to stand as they are proposed.’

I thought it worth while to make those general observations because this matter will need further attention. I make one other point

before conclusion. This act now is a mess. It is completely incomprehensible to any lay reader. It contains a myriad of provisions now which do not mean what they say. When the government brought in its first attempt to remove judicial review—namely, section 474—I spoke opposing that legislation and, in this House, the opposition opposed it on the basis that the provision was unconstitutional and that this parliament should not pass legislation knowing that it does not say what it means. Now, compounding the problem, we have section 474, which does not mean what it says, and a complex provision which says that, when you read section 474 and apply it to other decisions in relation to the time limits, the provisions apply to purported decisions. Try and read that as a sane citizen coming to the act for the first time and not an expert in migration law. Your average solicitor, lawyer or barrister, let alone your average parliamentarian or refugee claimant with limited English skills, would be completely lost.

This legislation is an abomination in terms of its comprehensibility and accessibility. It defies all the rules that we in this parliament have established for ourselves about trying to express ourselves in plain and simple English. It is a product of repeated efforts which had no prospect of success by a minister obsessed with an attack on the High Court of Australia in order to deny it its proper function and constrain the lawful entitlement of every citizen and noncitizen to ensure that administrative law is conducted according to law. Whatever the fate of these particular proposals in relation to time limits—and I am certain that they require amendment and that some mechanism is required to address those very exceptional circumstances where an absolute time limit would be held unconstitutional by the High Court—the act itself needs dramatic rewriting. It is simply not appropriate to have such fundamental legislation affecting the rights of persons

lation affecting the rights of persons who seek asylum in our country—and, indeed, section 474 and the other provisions that apply also to other migration decisions—expressed in such a turgid way. (*Time expired*)

Mr HARDGRAVE (Moreton—Minister for Citizenship and Multicultural Affairs and Minister Assisting the Prime Minister) (11.27 a.m.)—in reply—The member for Denison is well known in this place for not understanding time limits—his 10-minute speech went for 20 minutes—but it was a delight to hear him contribute to this debate. I want to thank all of the members for their contributions to the debate. Let me say formally for the record that the purpose of the **Migration Amendment (Judicial Review) Bill 2004** is in fact to reinstate the original intention of the judicial review procedural provisions which were passed by this parliament in September 2001. The simple and clear intention of the bill is to restore the original provisions which relate to procedural requirements for judicial review: firstly, those on time limits for judicial review applications; secondly, that only the High Court, the Federal Court and the Federal Magistrates Court will be able to hear judicial review of migration applications; and, thirdly, that an applicant will not be able to seek judicial review if merits review of the primary decision is available.

This bill also provides a discretion for the courts to extend the time limits beyond the 28-day period for a further period of up to 56 days when it is in the interests of the administration of justice. The effect of Plaintiff S157/2002 v. Commonwealth of Australia in the 2003 High Court decision is to render ineffective the procedural provisions. As a result, courts have had to undertake complete judicial review of all migration decisions to determine if procedural restrictions apply. Around 40 per cent of current cases are now filed outside of time limits, with some

lodged up to six years after the decision under challenge. Obviously, this is an enormous cost to the Australian taxpayer. Some people have been abusing the system of judicial review in this very fair set of circumstances that we extend to all comers in order to keep themselves in Australia, as that member for Kalgoorlie said in his contribution.

Let me take up the challenge of the member for Denison, who said the whole thing is too complex and very hard for the average person to read. He is a learned lawyer, and I suspect that he will have a tape of his contribution today made for some potential job application after parliament, as he brought his plaintiff lawyer style to the debate. I am not a lawyer, so let me just put it very simply: the bill will reinstate the original intention of the procedural provisions in relation to judicial review. The original provisions which the bill reinstates are: there are time limits—in other words, there is a process by which you can seek a review and you have to do it in a timely fashion for these judicial review applications; the High Court, the Federal Court and the Federal Magistrates Court are the only courts that can hear the judicial review of those applications; and, of course, if there is a merits review available it should be sought in the first instance. This is all about restoring certainty and efficiency in resolving migration review applications.

The bill is necessary to address the unprecedented rise in migration legislation, with the associated increased costs and delays. Much of this rise is due to unmeritorious judicial review applications. In the S157 case, the High Court found that decisions with certain errors were not privative clause decisions. This means that the existing procedural provisions will have no practical effect as a court must undertake a full review of the claims challenged to determine if the procedural restrictions apply. This bill will in fact reinstate the original intention of key

procedural provisions in relation to judicial review of migration decisions, including time limits for submitting applications.

Because the procedural restrictions have no effect, an increasing number of cases have been filed out of time or in an inappropriate court—as I said, in some cases up to six years have elapsed. In 2002-03 there were approximately 6,900 applications for migration judicial review before the court, and in this same year 99 per cent of constitutional writs before the High Court were migration matters. This rise is in fact in part due to the larger volume of cases being considered by the Migration Review Tribunal and the Refugee Review Tribunal. It is also due to a greater number of applicants seeking judicial review to delay their removal from Australia long after receipt of their visa decision. This is a particularly attractive option for some litigants, given that seeking judicial review through all the currently available courts can delay a person's removal for many years.

At the end of the day, the government is yet again acting particularly in the interests of those who have come to Australia through the process. The one thing that seems to have been forgotten by the Australian Labor Party in their contribution to the debate about this matter, and indeed in the broad migration debate when it comes to refugee asylum seekers, is the fact that the many people who do come through the system do not need to be tarred with the brush of the few who try to get around the system and then, worst of all, use the system to delay the inevitable—that is, their departure from Australia. These procedural restrictions need to be reinstated urgently before the judicial review system becomes even more seriously overloaded. The government is greatly concerned about the increasing numbers of applicants that are filing unmeritorious judicial review applications. This has greatly increased costs and delays in the judicial review process.

The member for Denison and the member for Perth also talked about matters to do with the constitutionality and legality of this. Let me say for the record that the Australian Government Solicitor has been consulted extensively throughout the drafting of this bill. The AGS was consulted on how to make the time limits and jurisdictional provisions work. The AGS advised us that the best approach was to make amendments which split the definition of 'privative clause decision' into two, with the second part of the definition picking up 'purported decision'. The AGS recommended that extendable time limits be put in place for the High Court and also recommended a 28-day time limit that could be extended for a further period at the discretion of the court. The AGS suggested that a further 28 or 56 days might be appropriate—we are talking here about taking it out to 84 days.

Finally, the AGS was asked to advise on the move from actual to deemed notice provisions before the High Court. This means that under this bill a person will have to make an application from the point that they are deemed to have been notified of the decision, and under the Migration Act this is usually seven days from the decision being made, to take account of postage. So, at the end of the day, we are actually looking at anything up to 91 days if you add it all together from the moment that that decision was made. The AGS advised that, given the onerous length of time for applicants to seek an extension of time, the deemed notice of provisions can be relied upon across the federal courts. These time limits are also consistent with other matters that appear before these courts.

At the end of the day, the protestations from those opposite about this matter again underscore that they are very happy about lining the pockets of lawyers and not dealing with the fact that it is the Australian taxpayer

that is footing the bill for the delays that these lawyers are bringing about through overuse of this judicial review. The government believes that the restoration of the procedural requirements will reduce the number of migration judicial review applications by approximately 25 to 30 per cent. This will also mean a saving in the Australian government's own litigation costs of between \$5 million and \$7 million per year. As I mentioned when introducing this bill, the amendments do not impact on existing grounds for judicial review or change the basis of the lawfulness of a decision—they are only procedural in nature. The simple and clear intent of this bill is to uphold the procedural limitations on judicial review in order to ensure the efficient and effective cooperation of our judicial review system.

Finally, I would like to deal with a couple of the other points raised by the opposition. The member for Perth claims that we should be focusing on reform of the merits review rather than judicial review. He claims there is an ongoing lack of confidence in Refugee Review Tribunal decisions which has contributed to the rise in judicial review applications. The RRT is not the problem. There is no basis for claiming that merits review is the problem. The statistics confirm that most RRT decisions are upheld by the court. In fact, there has only been something in the order of a three per cent departmental loss or withdrawal in this massive year, when there were some 3,662 cases that appeared before it.

The opposition's proposal to replace the RRT with a tribunal combining primary and merits review processes will simply lead to more cases being litigated in the courts over longer time frames, hence my accusation that they are good at lining the pockets of the lawyers. Not being a lawyer, I often think that, if it is good for the lawyers, it cannot be good for the general society. The clerks will

take offence at that, but at the end of the day we have to measure how excited we are about more money going to lawyers from taxpayers as against getting on with the job of giving people the opportunity to put an appeal forward and have that appeal heard. The opposition's proposed new tribunal will add to the workload, cost and time frame for decisions.

In summary, I note that the amendments contained in this bill will ensure that the parliament's original intention in relation to judicial review is reinstated. As I foreshadowed when introducing this bill, these amendments complement the findings of the Attorney-General's recent migration litigation review. The government will respond to the rest of that review over coming months. This bill provides a good, commonsense approach that is fair all round. I commend this bill to the chamber.

Question agreed to.

Bill read a second time.

Third Reading

Mr HARDGRAVE (Moreton—Minister for Citizenship and Multicultural Affairs and Minister Assisting the Prime Minister) (11.38 a.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

WORKPLACE RELATIONS AMENDMENT (AWARD SIMPLIFICATION) BILL 2002

Second Reading

Debate resumed from 29 March, on motion by **Mr Abbott**:

That this bill be now read a second time.

Mr RANDALL (Canning) (11.39 a.m.)—To save time, as this is a fractured contribution to the debate, which I began two days

ago, I seek leave to table an editorial from the *West Australian* newspaper.

Leave granted.

Mr RANDALL—I would like to briefly summarise what I was saying two days ago. The **Workplace Relations Amendment (Award Simplification) Bill 2002** is necessary to the flexibility of the work force in Australia. The flexibility that has been created in the work force has produced outstanding productivity results and a better deal for workers. It has resulted in more pay and better conditions for workers. It allows for some matters to be negotiated and for the simplification of the arrangements for AWAs negotiated between businesses and workers. As I have pointed out to this House on several occasions, the proof of the pudding is in the detail: for example, in Western Australia the state sponsored EEAs, the employer-employee agreements, have been so poorly received that something like 114 individual awards have been taken up, which contrasts with, in the same period, something like 65,000 AWAs registered to individuals. It just shows what people want: the safety, protection, flexibility and the better enterprise bargaining that is given by Australian workplace agreements rather than the union-sponsored EEAs.

As I said in my previous contribution, the fact is that the Australian Labor Party will oppose this. We know they will oppose it because they have been told to by the people that put them here—their union bosses. At the end of the day, they will oppose it because, as the member for Rankin himself said after the Labor Party's national conference, Labor and unions are as one again; they cannot act without each other. If you want any further proof of this you only have to see the blue going on in Western Australia at the moment between the state Labor Party and the unions. The unions are claiming respon-

sibility for putting different people into positions. Michelle Roberts is the state president of the Labor Party and there are different preselections that are union sponsored. Because there is fracture over some of the details with some of the unions involved, they are now saying that these preselections are in doubt. There is no doubt that the unions are controlling the people in this House.

Dr Emerson—Mr Deputy Speaker, I rise on a point of order in relation to the relevance of these comments. The member for Canning cannot help himself. This bill is about award stripping, euphemistically called award simplification. It has nothing to do with the matters he is now canvassing and I ask that you draw him back to the substance of the bill.

The DEPUTY SPEAKER (Mr Lindsay)—I thank the member for Rankin. The member for Canning will link his comments to the bill.

Mr RANDALL—My comments are inextricably linked to the fact that the Labor Party are in here opposing this bill because they are in the control and the domain of the union movement. We know that; the member for Rankin said that himself after the national conference of the Labor Party. It is as simple as that—undeniable. This is somebody who is in a state of denial. He comes into this place and says that he will oppose every industrial relations bill that we have put up. He is on the record as saying that. Do not be ludicrous and say that we are off the subject here. We are totally on the subject because we are dealing with his comments as they relate to industrial relations matters in this House. This bill is just one of those industrial relations matters.

I want to look at the national media commentary on these workplace relations bills and the opposition from the Labor Party. But, before I go to the specifics of the national

commentary, I want to say that one of the final provisions that the opposition and the member for Rankin have continued to allege is that this takes out the training component—‘deskilling’ I think he calls it. It is so far from the truth it is unbelievable. Since this government has been in place, we have gone from 105,000 apprenticeships a year to a number in the high 300,000s. In other words, we have almost trebled the number of apprenticeships being offered to young people in the workplace in Australia since we came to government in 1996. Compare that with Labor’s record: they drove apprenticeships and training down to 105,000 per year in 1996, when we took over.

It is real skilling of the work force—not de-skilling but real skilling—when you can give young people an opportunity to train and, as a result of training in the industry that they choose, they get jobs. It is totally ludicrous to claim that there is de-skilling because it is not an award matter. This is something that is negotiated with your employer—and quite rightly negotiated, because you get a better deal when you can negotiate something rather than having the prescriptive award that the Australian Labor Party want. They want a prescriptive award because they want to maintain control. The award gives them an opportunity because one size fits all, and if one size fits all then they can control it. They do not like variables—loose ends that their union mates cannot control. That is why there is opposition here. It has nothing to do with training and prescriptions for training young people. We know that apprenticeships and training have grown; they have not diminished. We have a very proud record on that compared to the Labor Party when in government.

The fact is that, with the outlawing of workplace agreements by the state Labor government in Western Australia, what Labor say in the states is what Labor want to do

federally. We know that. You only have to see what they will do in the states to see what they will do in the federal arena. The outlawing of these negotiated individual awards is an absolute disgrace because it is driving wages down in Western Australia and costing jobs. One has to look no further than the fact that in Western Australia a company called Consolidated Constructions went into liquidation—a company that had been an icon in Western Australia's building industry for years. They went into liquidation owing \$10 million. They claimed quite readily that it was due largely to the interference by the CFMEU in their business and the conditions that they had given.

The involvement of unions through rights of entry granted under the state's Labor government and the harassment from people like Joe McDonald from the CFMEU have eventually driven a huge business in Western Australia into bankruptcy. Not only has this driven it into bankruptcy but it has cost something like 400 jobs, let alone the jobs of contractors and the businesses of contractors in Western Australia. That is the end result of union domination in the work force. It has crept back in Western Australia. As I said, you only have to see what they have done over there to realise what has happened. On Thursday, 4 March, the *West Australian* reported:

BIG WA builder Consolidated Constructions has collapsed with \$10 million debts, leaving more than 400 staff and subcontractors uncertain about future work and getting paid.

The article goes on:

The collapse comes after a torrid year for Consolidated in which it has been enmeshed in contractual disputes and engaged in running battles with the Construction, Forestry, Mining and Energy Union over its policy of employing sub-contract labour.

What a sin! They wanted to employ subcontractors and the CFMEU continued to harass them. The article continues:

Consolidated has launched multiple legal actions against the CFMEU and its officials claiming they had intimidated workers at its sites ...

You need no further proof than that. And you have Joe McDonald almost gleefully saying that they have been able to do it. There is further evidence in Western Australia, particularly in the mining industry. An article entitled 'Miners wary of ALP policies' in the *Australian Financial Review* says:

Western Australia's biggest mining companies attacked the Labor Party's industrial policies yesterday, amid fears that a federal Labor government could centralise industrial relations and promote collective bargaining.

That is what we are talking about today—collective bargaining, because they are opposing the freeing up and simplification of awards. Collective bargaining comes from awards rather than from individual agreements. No less than BHP Billiton's iron ore president Graeme Hunt says:

The track record is very clear. We really can't afford to step backwards ...

Another quote in the article is:

We certainly hope Labor does retain a one-on-one working contract because our whole philosophy is a direct relationship ...

There is a further quote:

WA employers were increasingly using Australian workplace agreements, direct deals between individual workers and employers, that federal Labor has pledged to scrap.

Shame! At the end of the day, you are putting in jeopardy one of the great drivers of this economy, particularly in Western Australia—that is, the mining industry. And the examples continue. Another article from the *West Australian*, titled 'Business goes cold on Gallop', by Fran Spencer, says:

SMALL and medium-sized businesses have lost faith in Geoff Gallop's Labor Government ...

... ..

The February Sensis Business Index, to be released today, shows the WA Government has been deserted by the State's small and medium enterprises with support for its policies slumping 9 per cent in the three months to the end of January.

This is just more evidence. Again, in the *Sun-Herald*—you can see this is a good sample of articles from all around Australia—on 21 March an article by Kerry-Anne Walsh, titled 'Poll finds Labor lagging on economy', said:

LATHAM Labor is lagging significantly behind the Government on economic credibility, an exclusive *Sun-Herald* poll of business reveals.

On every indicator, they went backwards. There is further evidence. 'Latham would hurt industry in WA,' say bosses in a *West Australian* article on Saturday, 20 March this year. The article continues:

WA's main industry body has warned that the election of a Latham Labor government would be disastrous for the State's economy.

Chamber of Commerce and Industry spokesman Bob Pride said coast-to-coast Labor governments would severely disrupt WA's booming growth.

You can't get better than that! All around Australia, we have evidence. There was a very credible person speaking in the *West Australian* on 27 February: Michael Chaney—considered one of the best executives in Australia—from Wesfarmers. The article titled 'Chaney blasts reform failure' says:

LEADING businessman Michael Chaney says businesses could suffer because of the State Government's industrial relations changes ...

... ..

... the Wesfarmers chief spoke about the Gallop Government's scrapping of individual workplace agreements in favour of the employer-employee contracts based on union-negotiated awards.

What state Labor does, federal Labor wants to do. Here we have all these eminent people from around Australia outlining just how it will hurt. The final coup de grace is an editorial in the *Financial Review* which is headed 'Labor must pick jobs over dogma'. It says:

Let's start with Labor's promise to abolish Australian workplace agreements. Removing these has been an article of labour movement faith since formalised individual work contracts were introduced in 1997.

AWAs are a heresy to union officials because they exclude them from the workplace and deprive them of control and relevance.

Here is one of the most credible newspapers in the country—you cannot accuse it of any political bias—outlining what Labor would do if they could get hold of the award system in this country. If we had wall-to-wall Labor governments—six state Labor governments and a federal Labor government—workplace relations in this country would go back to the Dark Ages or to the dinosaur age that the member for Rankin is promoting on behalf of his Labor mates. The article continues:

... AWAs have become a symbol of waning industrial muscle that the unions, with Labor's support, are hell-bent on chopping down. Labor obediently promises to abolish AWAs if it wins office.

Compliantly and obediently the Labor Party are saying they will abolish AWAs if they win office. This is disastrous for Australia. The award system needs to be simplified to provide better flexibility and jobs for the people of Australia. I support this bill.

Ms GEORGE (Throsby) (11.53 a.m.)—I am not surprised by the diatribe we have just heard from the member for Canning. I listened very intently because I wanted to hear what justification he would produce for supporting the **Workplace Relations Amendment (Award Simplification) Bill 2002**. I think the only justification he gave was the notion that

flexibility would be introduced by the passage of this bill.

Mr Randall—Read *Hansard* from two days ago.

Ms GEORGE—I listened intently to what you had to say and I think you should begin by acknowledging that—

The DEPUTY SPEAKER (Mr Lindsay)—Member for Throsby, I did not say anything.

Ms GEORGE—Sorry, Mr Deputy Speaker. I think the member for Canning should at least acknowledge from the beginning of this debate that the title of the bill is a gigantic misnomer. This bill has nothing to do with simplifying awards. This bill is really about obliterating the industrial safety net that the award system has provided, particularly for vulnerable workers, for a century and more. This has nothing to do with union bosses. It is about a system of conciliation and arbitration in this country that has been the envy of many countries throughout the world. It is a system that has been consistently under threat from this government. They continue to introduce bills into this chamber that reflect the archetypal Orwellian doublespeak. I thought the current Minister for Employment and Workplace Relations might amend the government's ways, but all he has done is replicate the lessons that he has learnt from previous ministers. He has learnt from Tony Abbott, who was the minister prior to him, and is well taught by Peter Reith, who first introduced the notion of Orwellian doublespeak with his Workplace Relations Legislation Amendment (More Jobs, Better Pay) Bill 1999.

The real agenda of this government is not about protecting the rights of ordinary people; it is about dismantling a system that has served this nation incredibly well and in particular has served the interests of low-paid workers. Many of them are not even in un-

ions, but at least they know that the award system provides a safety net and a floor below which no member of the work force can fall. That has been a great thing that Australia has been able to do to protect the interests of those with the least bargaining power against rampant exploitation.

For the period of time that the Howard government has been in office, we have seen consistently, in every bill introduced in this House, a process of dismantling the system as we have known it—the system that has served the nation well. We have seen the balance of bargaining power tipped in the interests of employers and we have seen the introduction of individual contracts of employment, which are much touted by the member for Canning. We all know from our own personal experiences that people are told: 'Either you sign up on the individual contract or you do not have a job.' The member for Canning should know that the introduction of AWAs in his state of Western Australia has in fact led to the most appalling outcomes for women workers. The gap in wages between men and women is growing under the Howard government, and it is accelerating at the greatest rate in the state of WA.

This is par for the course. The contribution from the member for Canning shows that he shares this government's ideological obsession with trying to reduce the protections for ordinary working people, many of whom are not unionised; trying to dismantle the powers of the commission; trying to reduce the powers of unions to defend and protect the rights of working people through collective bargaining; and trying to limit the potential of unions to take industrial action, even when that is in defiance of ILO conventions.

This bill is introduced into the House under the false title of 'award simplification'. It

is really part of an agenda that tries to obliterate the underpinning entitlements that exist for all working people. This comes as no surprise, because the government's real agenda from day one has been to try to legislate for a handful of minimum conditions and to leave everything else to be bargained for at the workplace level. It is a tragedy for those who do not have the capacity to bargain—the vulnerable, low-paid workers, women workers and part-time and casual workers for whom the award is the only measure of protection at work.

The introduction of this bill continues the government's award-stripping agenda. Much to the regret of working people, with the support of the Democrats the government was able to get away with its agenda to reduce the number of allowable matters to just 20. We were told then that this was all about flexibility. The member for Canning did not really address the issue of flexibility, which is much touted by the government as being the rationale for its reduction in workers' entitlements. You have to ask: flexibility for whom and at what expense?

When we first submitted these proposals to numerous Senate inquiries, I went back and wanted to put on record the words of a very eminent practitioner in the field of industrial relations Professor Isaac, who said at the time that the awards were first up for the chop with regard to entitlements. He said:

The significance of this reduction in the list of allowable matters is not merely that it reduces the role of the commission, and one may ask why this is justified, but, more importantly, that it effectively reduces the size of the safety net on which weaker sections of the work force and those that are unable to engage in enterprise bargaining rely. This group is on the safety net because it does not have the capacity to engage in enterprise bargaining or is unable to secure more favourable terms through enterprise bargaining. Close to one-third of employees are in this category and, while this group spans remuneration levels of up to \$1,000

per week, it is dominated by low-wage earners, women and migrants, a large proportion of whom are part-time workers.

The tragedy of the government's attempts to further strip the awards is that the end result impacts most severely on those who have the least bargaining capacity.

What we saw happening in the first round of award stripping was that people with industrial capacity renegotiated all the lost conditions back into their enterprise agreement, and it was those without bargaining capacity who really felt the brunt of award stripping. I want to cite a couple of examples. It needs to be recognised that just under two million workers are covered by an award, so what they get at work—their wages and conditions—are what the minimum entitlements set out in the award provide for. The more you strip back those entitlements, the more you leave exposed those with the least bargaining capacity.

Let me cite one example of the impact of the first round of award stripping. As I said earlier, the commission's powers in determining what went into awards were part of the package. Not only did the government prescribe what was allowable but, in that process, it also reduced the powers of the independent umpire to determine what was fair and what was just. In the first round of award stripping, let us just look at the prevention of the right of the commission to set both maximum and minimum hours of work for part-time employees. The member for Canning would have you believe that, if you take away the right of the commission to set maximum and minimum hours of work, that is justified on the grounds of flexibility. But you have to ask: flexibility for whom? The flexibility really meant greater bargaining power for the employer, and the people who particularly lost out were those workers who relied on the award, which had previously set maximum and minimum hours of work.

So it was not uncommon in the cleaning industry, for example, where many people are low paid and dependent on just the award, to find that, whereas the award had previously prescribed their hours—so that it was not unusual for a worker to come in at 6 a.m. and finish at one, and to work the afternoon shift in the second week—this simple deletion, which was much touted because it was going to provide greater flexibility, left thousands of workers exposed to broken shifts. So, instead of regular and predictable hours of work, you had people coming into work for three hours in the morning—maybe taking an hour or more to get there—going home and then returning in the afternoon, with great disruption to their family life. And, as part and parcel of this so-called flexibility, they lost shift and other penalties that went with their previous working arrangements.

If it was not bad enough that the award could not set your maximum and minimum hours of work or that a boss could call you in for an hour, half an hour or whatever variation suited them, we also found with the first round of award stripping that the span of ordinary hours was increased. Whereas in the past nine to five represented the normal hours of work for an office worker, you could now have a span of hours that might start at 7 a.m. and conclude at 7 p.m., and every hour that you worked in that span of hours was considered ordinary—that is, without the prospect of overtime or penalty rates applying. So much for flexibility! We saw flexibility that impacted most negatively on those who had the least bargaining capacity.

The government lied to the people of Australia, because it assured working people at the time of the first round of award stripping that no worker would be worse off. You go out there and talk to ordinary working people, particularly casual, part-time or women

workers or people reliant on the award system, and they will tell you that they were worse off. As far as their span of hours was concerned, they lost, because they no longer had regular and predictable hours of part-time work and they lost income because the conditions that previously applied in their award were taken away from them.

I cite that merely as one example to show that all the hype we had about award simplification really meant award stripping and that, if the government had its way, it would obliterate all industrial awards and legislate for a bare handful of minimum conditions and workers would be left out there in the marketplace to try and better that handful of minimum conditions. We now have a bill that wants to strip back awards even further. It is absolutely ludicrous to suggest, as this bill does, that awards should be stripped of such things as long service leave, skill based career paths, notice of termination and jury service—and there are a whole lot of other restrictions that would come with the passage of this legislation. It is absolutely appalling to think that this government would continue down the path of further erosion of basic award entitlements that underpin the notion of a fair go for those with least bargaining capacity in the workplace. If the government were to remove all those things, as it did with other areas in the first round of award stripping, people with industrial capacity would have the means to get all those conditions reinserted in their awards, but it is those people without bargaining capacity and without industrial muscle who would be very exposed in that process.

I want to deal specifically with one proposal in the bill and that is the removal of skill based career paths from industrial awards. This is an absolutely absurd proposition. Skill based career paths were first introduced into the award system with the unanimous support of employer organisations and

the ACTU as part of a gigantic award restructuring exercise some two decades ago. Do you know why we introduced skill based career paths? It was primarily to encourage workers to undertake further training, which was to be based on approved industry training packages. We were encouraging workers to enhance their skills, their competence and their productivity, and in return we instituted skill based career paths that provided additional monetary compensation and remuneration for workers who took advantage of the opportunities of upskilling in the workplace.

This government is now suggesting that all the effort that went into providing for career paths based on approved industry training packages should be taken out of the award system—at precisely the time when reports indicate that our nation is facing a growing skills shortage in a number of significant areas of concern. So the government's intention would be to send that signal at a time when our growing domestic skills shortages are becoming a major national problem. If these career paths were to be removed from the award system—and I am confident that the Senate again will see the merit in the arguments that the opposition is advancing—the vast majority of employers would have neither the time, the resources nor the means to renegotiate similar provisions workplace by workplace. We have accredited national industry standards that are written into the awards—

Mr Price—At long last.

Ms GEORGE—at long last, as my colleague says. They encourage workers to upgrade their skills and their competencies and to be remunerated for doing so. This has been particularly important for women workers. We have had a huge battle in our quest to get equal pay for women, and that quest continues today. But because many women workers—for example, clothing and textile

textile workers—were never given the opportunity of gaining formal accredited qualifications, because apprenticeships were not available in many female-dominated industries, award restructuring meant for the first time that women could show their skill, their competence and their experience through the skill based career paths and could be remunerated for those experiences that historically had been denied to them.

So the removal of these skill based career paths would be bad for all working people—bad for the nation, bad for the economy, bad for our productivity, bad for the attempt to invest more in human skills and human capital—but it would be incredibly regressive for women workers who, in their quest for equal pay and recognition for skills that had never hitherto been properly acknowledged, finally, through the skill based career paths that this government is now attempting to take out of the award system, achieved that measure of recognition and recompense. So there is no justification at all for the proposal to eliminate skill based career paths, to take out long service leave provisions, to take out notice of termination provisions, to take out the rights of people to be involved in jury service and to take out the other entitlements that would be at risk if this bill were to see the light of day.

Let me conclude by saying that this government is engaging again in the greatest act of hypocrisy by coming into this House with a bill entitled 'award simplification' when we all know it is about award destruction, award stripping and, ultimately, the obliteration of industrial awards. The people out there for a long time have understood that our system has been fair in that every working person's entitlements are underpinned by an industrial safety net which has been built up over a long period of time and which has been the envy of many other countries that have

looked historically to Australia's system as one that really provides a fair go.

The second conclusion I would want to draw from this is that, despite all the rhetoric we hear about union bosses determining the agenda, the people who would be most disadvantaged if this bill ever saw the light of day would be predominantly people who are not even unionised—the low paid, the casual workers, the part-time workers, the young people at work, the migrant workers. This has nothing to do with shoring up the power of union bosses, as the member for Canning alleges. This is all about Australia having the decency to continue to underpin every working person's work day life with a set of entitlements that ensure that no-one falls through the floor, that not all power is with the employer and that decency can apply at the workplace level. That is why this side of the chamber is wholeheartedly opposed to this bill.

Mr KING (Wentworth) (12.13 p.m.)—Fewer strikes, lower inflation, higher productivity, lower interest rates, the creation of some 1.3 million jobs and increases in real wages of more than 13 per cent for ordinary Australians are, this government contends, some of the results of the workplace relations reforms over the last seven or so years. That list of matters has led to real progress in workplace relations in this country and is an important driver behind the reforms contained in the [Workplace Relations Amendment \(Award Simplification\) Bill 2002](#) currently before the House. There is no doubt that overly complex and restrictive awards do hinder agreement making in individual workplaces and do act as a barrier to continued employment growth, and I believe it is now appropriate for the parliament to enact measures for further targeted simplification.

The bill before the House amends the 1996 act in order to tighten and clarify al-

lowable award matters. Provisions which duplicate other legislative entitlements or which are more appropriately dealt with at the workplace level will be removed. In particular, the bill will clearly define and specify allowable matters. For example, redundancy pay will only relate to genuine redundancy and not to resignation. The range of matters currently referred to as 'other like forms of leave' will be more closely specified, and the bill clarifies matters that are isolated from an award.

Let me deal with a couple of examples. The removal from awards of matters that are better dealt with at the workplace level through enterprise bargaining is one important target of the proposed bill. The proposed amendments will have the effect of removing from awards those matters more appropriately dealt with at the workplace level than at the industry level—such as is the focus of awards. The first of those matters is skill based career paths, as mentioned by the previous speaker, the member for Throsby. Others are: certain forms of leave; transfer of employees between locations; training and education other than for apprentices and trainees; and transfers between different types of employment. It does seem logical, if one accepts the basic reforms in the Workplace Relations Act and the focus on agreement, that those matters are better dealt with at the workplace level.

Another area of focus of the bill is the removal from awards of matters that are duplicated in state, territory and/or other federal legislation. I give the examples of notices of termination, jury service, record of hours of work, arrival and departure times of employees, and accident make-up pay. There are also some training and education provisions relating to apprentices that are dealt with in the same category. Of course, we do live in a federal system. On the other hand, we ought to focus on the appropriate delivery within

the Commonwealth structure of legislative process for the purposes of finding agreement at the industrial level—at the workplace. It seems to me that if we are focused on streamlining and simplifying the industrial process and the reaching of industrial agreements then we ought to ensure that the appropriate level of government deals with things in the appropriate industrial arbitral service—in this case, for the most part, state and territory industrial commissions or arbitral tribunals.

Another area of simplification involves the removal of matters that do not form part of a safety net of minimum terms and conditions. I give the examples of public holidays not declared to be observed generally within a state; removal of bonuses, except bonuses for outworkers; limitation of the scope of what may be included as an allowance; and clarification of the commission's power to make minimum rates awards that provide for basic entitlements. Finally, a further area of simplification which I think commendable is that of matters that hinder productivity in the workplace, including provisions specifying the number or proportion of employees in a particular type of employment and direct and indirect prohibitions on employers employing employees in a particular type of employment or classification.

There are other ad hoc measures that deal with other allowable award matters such as preserving freedom of association principles in relation to dispute resolution clauses and ensuring that all exceptional matters orders are now heard by a full bench of the Australian Industrial Relations Commission, but in effect the thrust of these provisions is to ensure that the government continues to put in place the framework for a workplace relations system that creates higher real wages and more jobs. At the end of the day, it gives freedom to those involved at the workplace—those on the part of the employers

and industry and those on the part of the employees who actually do the hard work, if I can put it that way, at the coalface—who are best placed to reach agreement about the conditions of employment under which they make their own personal arrangements. That is the driving thrust behind the workplace relations legislation, introduced by this government, that has been so beneficial, and this legislation before the House is very much part of that program.

I have with me a copy of an example of an award—in this case, the Metal Industry Award—that I have printed off the Internet. It is a rather large tome. I suspect it must be nearly 1,000 pages. There are all sorts of schedules, amended schedules and provisions dating from different times and going right through. It would be wrong to say the whole thing is a dog's breakfast, but it is something that has with the accretion of time had bits rusted on here and there, and it is almost impossible for the ordinary person to read. I suspect it is almost impossible for the ordinary metalworker to read and digest. That is not conducive to good industrial relations. It certainly is not conducive to those who are on the shop floor understanding precisely what terms and conditions they are working under. So it is a good example of why we need award simplification, and it is a good example of why this House should support the legislation before it.

Mr PRICE (Chifley) (12.21 p.m.)—Like other opposition speakers, I rise to speak in opposition to the **Workplace Relations Amendment (Award Simplification) Bill 2002**. Industrial relations have a great impact upon employment. I must say that I am getting quite alarmed by the employment statistics coming out of my electorate. For example, in December 2001 there were 75,942 people employed in my electorate. By December 2003 that had fallen to 70,230. Nearly 6,000 people have fallen out of em-

ployment in my electorate since the re-election of the Howard government.

Indeed, there has been a dramatic climb—of more than 1,000—in the number of unemployed people in my electorate. The figure rose from 4,796 in December 2001 to 6,601 in December 2003. The unemployment rate has gone up by half a per cent each quarter in the last five quarters. Of course, I am alarmed at that trend. In December 2003, it was 9.4 per cent. In December 2001, when the Howard government was re-elected, it was 6.3 per cent. I wish I could provide the House with some easy and ready explanation for what is happening in my electorate. I cannot, other than to say that these figures are telling a very stark story. I seek leave to have incorporated in *Hansard* the table of the figures from which I have just quoted.

Leave granted.

The table read as follows—

CHIFLEY EMPLOYMENT STATS

Persons in the Labour force

Dec 2001	75,942
Dec 2002	74,905
Mar 2003	73,240
Jun 2003	71,479
Sep 2003	69,944
Dec 2003	70,230

Dropped by 5,712 between December 2001 and December 2003.

Unemployed Persons

Dec 2001	4,796
Dec 2002	4,618
Mar 2003	5,042
Jun 2003	5,645
Sep 2003	6,198
Dec 2003	6,601

The number of unemployed persons in Chifley rose by 1805 between December 2001 and December 2003.

Unemployment rate

Dec 01	6.3%
Dec 02	6.2%
Mar 03	6.9%
Jun 03	7.9%
Sep 03	8.9%
Dec 03	9.4%

Mr PRICE—I thank the House and I particularly thank Parliamentary Secretary Stone, who is sitting at the table. On 15 October I asked the Prime Minister about these figures—that is, the increase by a half a per cent each quarter from June 2002 to June 2003. The Prime Minister was kind enough to accept that the figures that I had provided were reliable, and I thank him for that. But in response to what the government might do to lower unemployment, he relied on the fact that interest rates were low and that he wanted to get rid of the cumbersome unfair dismissal laws—get them off the back of small business. I want to make the point that I do not believe that unfair dismissal laws affect employment whatsoever. In fact, the small business that my wife is a director of has been putting people on, notwithstanding unfair dismissal laws. I believe there is a whole fabrication being built around this so-called burst of employment that might arise as a result of a further attack on workers' rights.

In speaking to this bill, I want to say that I am proud to be a union man. I have always been a member of a union. As a teenager, I was elected as a union delegate when I was working as a labourer on the water board, and then, when I started to work for PMG and later Telstra, I was always pleased to be a delegate. In fact, I have been very much involved in my branch's union activities. In those days, we were considered the militant section of the union, but we would talk ourselves blue in the face before we would take workers off the job. We did do it, but we ex-

ploited every opportunity. I think it is a great thing to have been a representative of people who work. I applaud my colleague the honourable member for Throsby, who came into this place with an illustrious record of having worked for workers' rights, including being the President of the ACTU. I do not see this as something on which to belittle me or the honourable member for Throsby. It is a point of pride with us. It is a point of accomplishment for us. To the day I die, I will be a union man.

But this government sees unions as evil—as somehow holding back progress in the world of work. I would like to remind the House of all the things that we did under the last Labor government to make changes in the workplace. There are some things that as a member for parliament you never forget. I remember that, when we were trying to get workers to be involved with management, to increase productivity and to develop quality circles, we were tramping around the paper mills down in Tasmania and we spoke to a delegate there. His words will never leave me because he said of those changes: 'Before when I used to come to work, when I bundied on I left my brains behind; now, when I bundy on I am expected to bring my brains with me.'

I have never understood the philosophy of the Howard government—and I have been on both sides of the equation, as a worker and as a manager. How can you expect to get the best out of the workplace if you do not involve workers or if you terrorise them with concerns about losing their jobs? And, indeed, what does this bill do? It takes out termination as an issue for an award. So an employer can ring you up and say, 'Goodbye, you don't have a job.' Already the work force is very concerned about the lack of certainty in their employment. I understand that over the last 20 years things have changed dramatically in the workplace. Mr Deputy

Speaker Lindsay, you and I might have looked for a permanent job with a company or public institution and stayed for 10, 20 or 30 years and seen our careers out. Young people are different today. They are quite happy to move around in a way that we would have found very discomfiting.

Let me say this: on the Labor Party side we actually believe in the dignity of work—that is, that there is nothing dishonourable about working; that there is dignity in saying, 'I am a worker.' Whether you are a blue-collar worker or a white-collar worker, there is dignity in that. As a society, we also credential ourselves by what we do. If you are meeting someone for the first time, the most common thing you ask is: 'What do you do?' But what is the Howard government doing? The Howard government is trying to drive a huge wedge between workers and their employers.

Under the Howard government's industrial relations reforms, Mr Deputy Speaker Lindsay, you and I can be doing the same job but we can be differently remunerated. I think that is terribly wrong. In Australia we are very proud to have had an arbitration system for more than 100 years. It was used to get over those terrible great strikes in the 1800s and the early 1900s; it was used to provide mechanisms whereby strikes could be resolved; but, most importantly, it provided protection for workers. The idea that somehow a worker and an employer are on an equal footing, equally able to negotiate on the fundamentals of employment, is absolutely farcical. Why continually attack organisations that seek the betterment of the working men and women of Australia? I do not understand that. It is a maniacal assault on the trade union movement. I just do not understand it.

Already, since 1996, the allowable matters in awards have been reduced to 20 matters.

In the Hawke-Keating years, for example, we were able to achieve—without any strikes, without any lockouts—the crunching of over 300 separate awards in the car industry down to nine. In fact, the government got involved in a range of important issues. We did not stand at arms-length and say, ‘This is something that the marketplace has to sort out.’ We actually got involved in the car industry and the steel industry and insisted that there ought to be reciprocity—that is, in return for concessions on the union side, there would be an investment program ensuring that the facilities that the workers had to work with were up to date, modern and the best that were available.

Whatever anyone would like to say in this place, it is unarguable that that car plan led to a massive transformation of our automobile and components industries. That was not an example of the Labor Party in government bringing down draconian legislation; it was not even a case of the Labor Party in government trying to favour one side of industrial relations over the other. It was done with the active support of the unions, the employers and the employer association. That is what should happen. But can you recall an example in the eight years of the Howard government where the Howard government has intervened to cause investment in an industry or got involved in ensuring an industry’s future? Of course you cannot.

The member for Throsby pointed out what was being removed from the award system: skill based career paths for workers. The notion that if a worker undertakes study—an industry credentialled package of skills—and becomes more highly skilled, they should not be rewarded; that somehow Australia is so skilled that we do not have to worry about providing opportunities for the people of Australia, our working men and women, to gain further skills, and that when they gain those skills they should receive zero rewards

for it. How absurd. I am sure that every coalition member understands that productivity, having increased so much through technological change, and skilling up the work force is now at the point of decline whereby it is starting to cause people to worry, and so they should. Australia has no comparative advantage in trying to compete internationally on a low-skill, low-pay base. We cannot do it. There are already countries in Asia which have wages much higher than in Australia.

We on this side of politics believe this passionately: our future is in providing opportunities for people. In the main, for working men and women, that means providing opportunities to get entry-level training into the careers of their choice and providing career training to enhance their skills. Not only do they benefit as individuals but we benefit as a nation. What is the Howard government doing? It is saying no. It is saying: ‘Nyet. We’ve got to get this out of the award system. This is holding Australia back. This is an alien philosophy to us. We can’t have skill based career paths in our award system. If we get skills, we can’t provide opportunities for people to move up the ladder in the world of work.’ That is what they are saying. How absurd.

Long service leave is going to be taken out of awards. I think we can agree in a bipartisan way that there is nothing worse than seeing workers, men and women who give a lot of service to an individual company or organisation, accrue entitlements and then see that company go belly up so they do not get their entitlements. We can argue about the process for fixing it, but I think in this parliament we all should—and I believe we do—think that that is terribly wrong. On this side of the House, we say that the measures that you have sought to provide recompense in that system do not go far enough. Your safety net does not go far enough. That is a

debate we can have, and we can take different sides of it, but why are you trying to take long service leave out of awards? What is the rationale? Do you want workers who do not have the benefit of strong union representation not to have long service leave in their agreements? Is that really what you are getting at? Is this another way of hollowing out workers' pay? There has been a lot of hollowing out of workers' pay since this government came in. Is this just another example? Why would we in the Labor Party not object to taking out skill based career paths and long service leave?

And—horror of horrors—how many times have we heard from the coalition members that workers should benefit from the success of their employers and places of employment? Many, many times. And now, of course, bonuses are to be taken out. You cannot have an award where workers might be paid a bonus. All the rewards of success should go to capital. All the rewards of success should go to management. It is diabolical, and I must say that it is a view of work and management that I do not share. But I will be interested to hear the coalition speakers provide justification for why skill based career paths, bonuses, long service leave and notice of termination should be out of awards.

The future of the world of work is dependent on a number of things. The involvement of workers is important. It should not just be a one-way thing. It should not just be: 'You're lucky to get a job, and that's it.' You actually want workers to be committed to their place of work. You want them to be involved in key decisions, because often the workers, white-collar or blue-collar, know a lot more about the job than management does—and we were going along that path. I have always said that I believe, philosophically, that management and workers have a lot in common. But, rather than encouraging

the sharing, you are trying to wrench them apart. You are trying to entrench the idea that all workers are entitled to is the privilege of a job at the whim of the employer, and that is it. (*Time expired*)

The DEPUTY SPEAKER (Mr Lindsay)—Order! Before I call the next speaker, during the member for Chifley's contribution leave was sought to incorporate material in *Hansard*. I have allowed that course of action to be followed. However, for the information of the House and the member for Chifley, it has been the practice of previous Speakers to keep *Hansard* as a true record of what is said. Where material can be read into the *Hansard*, it should be. The incorporation of anything into the *Hansard* record other than items such as tables, which need to be seen in visual form for comprehension, is usually not allowed.

Mr TICEHURST (Dobell) (12.42 p.m.)—I rise today to support the [Workplace Relations Amendment \(Award Simplification\) Bill 2002](#). The reforms in this bill are designed to implement the Howard government's ongoing commitment to maintaining the award system as a safety net of minimum wages and conditions that facilitates agreement making in the workplace. I must say that, unlike the member for Chifley, I have never been a union man. I have seen many companies that have been destroyed by intransigent unions, but all through my working career I have done my own bidding, and I have done that quite successfully. In my electorate of Dobell, small business is a huge contributor to the local economy, and job creation is a key strategic issue being addressed by all levels of government. For my electorate, this bill is important because it has the potential to reduce the complexity of the workplace relations system and to remove the burden on thousands of small businesses, which can create new jobs.

Reforms to the workplace relations system since the Howard government came to office in 1996 have assisted in the creation of more than 1.3 million jobs and led to increases in real wages for ordinary Australians of more than 13 per cent. The Workplace Relations Amendment (Award Simplification) Bill amends the Workplace Relations Act 1996 to tighten and clarify allowable award matters. For example, redundancy pay will only relate to genuine redundancy and not to resignation by an employee, as some award clauses currently allow for. The range of matters currently referred to as other forms of leave will be more closely specified, and the bill clarifies matters that are isolated from an award.

Provisions will be removed which duplicate other legislative entitlements. For example, legislation in every state and territory already provides for long service leave. Similarly, the removal of accident make-up pay from the awards is not about absolving employers of responsibility to employees injured at work—as Labor, I am sure, would like to have people believe. The fact is that weekly payments to injured workers are regulated by the relevant workers compensation legislation in each jurisdiction. It is appropriate, then, for payments in respect of accidents in the workplace to continue to be regulated at a state level, in order to fit with the current workers compensation regimes. Regulation of accident make-up pay—like regulation of training provisions relating to apprentices and trainees, notice of termination, jury service and records of hours of work—increases the complexity of awards. If parties want to increase the amount paid to injured employees above the statutory provisions, this should be covered in agreements and not in the award safety net. Surveys have shown that, because of overlapping federal and state legislation, many employees and employers do not know whether federal or state law applies to them. This overlapping is

unnecessarily confusing and cumbersome, and I am sure that this move will be welcomed by many employers and employees in Dobell.

Provisions which hinder productivity and workplace performance or which are more appropriately dealt with at the workplace will also be removed from the awards. The fact is that skill based career paths, certain forms of leave, transfers of employees between locations, training and education other than for apprentices and trainees, and transfers between different types of employment are matters that are more appropriately dealt with at the workplace level.

I am going to expand briefly on the training and education provision. The training and skills of employees are vitally important for the Australian economy, and the Australian government remains committed to improving the knowledge and skills of the Australian work force. Removing training and education provisions from awards is consistent with the evolving workplace relations system that focuses on enterprises and workplaces, with agreement being the main form of determining pay and conditions.

The Labor Party's opposition to the bill is merely another example of the union movement being the owner and operator of the Australian Labor Party. I have been a small business owner, I have been a managing director of a multinational company and I have worked on the factory floor. Through my varied employment experience, I understand that matters associated with education and training are best dealt with by agreements between employers and employees at the workplace level. Workplace agreements enable employers and employees to develop and implement training and education arrangements. These arrangements meet the particular needs and circumstances of their own workplace, allow them to respond more

quickly to changing skill needs by implementing new training and education arrangements, and avoid the prescriptive one size fits all approach.

It is disappointing that the Labor Party has opposed award simplification since its introduction in 1996 and remains opposed to it even where there is clear evidence of improvements. It is disappointing that the Labor Party does not see the damage in overly complex and restrictive awards that act as a continued barrier to employment growth. One restrictive award that stood out for me had a clause relating to mandatory transfers between types of employment and a clause which placed restrictions on the employment of employees in a particular type of employment or classification.

In my electorate and indeed nationally, the increase in the casualisation of the work force is cause for concern. Casual workers have no job security and no access to paid leave or holiday leave. They are not guaranteed an income and they will have little opportunity to borrow money for even a house or a car. But a provision requiring mandatory transfer of employees between different jobs is not the answer. All this does is hinder the productivity of the workplace and reduce the capacity of employers and employees to make choices about the way in which they regulate their employment relationship. Provisions that merely add prescriptive detail to awards and reduce flexibility simply do not belong in the industry wide awards. If these sorts of provisions are ever considered appropriate for a particular workplace, they should be contained in workplace agreements rather than broadly applied with the one size fits all approach.

It is interesting to note that the previous Labor government did see the value in simplified awards. In a speech at the Institute of Directors in Melbourne on 21 April 1993, Mr

Keating spoke about the model of industrial relations they were working towards, and he said:

The safety net would not be intended to prescribe the actual conditions of work of most employees, but only to catch those unable to make workplace agreements with employers.

Over time the safety net would inevitably become simpler. We would have fewer awards with fewer clauses.

Today's Labor Party, it seems, are going backwards in their support of an unrealistic and prehistoric one size fits all approach to workplace relations. Small businesses need greater flexibility because they do not have the same access to financial and human resources as larger businesses, and unplanned expenses can threaten the viability of a business and the jobs of those working for the business. It must be remembered that businesses can only pay employees out of profit—no profit, no continuing business. Long service leave and other provisions that are duplicated in state and territory legislation can cause unnecessary complications for employers, not to mention additional administrative costs that small businesses simply cannot afford.

In conclusion, reforms of the workplace relations system since 1996 have not only created more jobs for Australians, but they have also resulted in fewer strikes, lower inflation, higher productivity and lower interest rates. The Workplace Relations Amendment (Award Simplification) Bill 2002 will contribute to a balanced system for both employers and employees, a process that would lessen complexity, lower costs and provide more certainty for both employers and employees. I urge members opposite to support this legislative move towards a more unified workplace relations system that contributes positively to the social and economic wellbeing of our community.

Ms BURKE (Chisholm) (12.50 p.m.)—I love following government members in these debates when they talk about things they know absolutely nothing about. The absolute load of rhetoric coming from the other side cannot be actually quantified or justified by any example in any way, shape, size or form. The absolute dribble is just beautiful. The **Workplace Relations Amendment (Award Simplification) Bill 2002** will impact particularly on small businesses. Small businesses like certainty; they like awards. It makes their lives easier. So to say that stripping back awards creates jobs is actually false. There is absolutely no demonstration that this is true. It is like saying that being able to sack someone more easily is going to create jobs. It is laughable and it is tragic.

Coalition members in the government accuse us of not understanding business, but they come in here and talk about industrial relations and they do not know what it is or how it works. They have never worked in the system. They have never dealt with the day-to-day realities of industrial relations. They have not done it. There is about one person on the other side with any HR or IR background. I have worked on both sides of the fence, as an employer representative and as a union representative. I have seen it all. They come in here and talk the talk, but they do not actually understand the day-to-day applications of how these things work.

The tragedy is that you cannot escape the sense of *deja vu* about this bill. I have an overwhelming sense that I have been here before. Sadly, I have—I talked on this when the allowable matters were stripped back to just 20. Now we are here again to strip them back to 16. I love the rhetoric from the government that it is about award simplification. That is a load of bunkum. It is not; it is about stripping away more hard-won entitlements and creating a greater sense of confusion for employers. By the way, we have been wait-

ing an awfully long time for this bill to come on. If it is so important and it was introduced in 2002, how come we have managed to get it onto the legislative program only at the very end of this session in 2004?

I mentioned that this bill creates confusion and headaches for employers, particularly in small businesses. The bill takes away another four allowable matters, reducing them from a mere 20 to 16, and places limits on those remaining 16 matters. Just imagine that you are starting up a small business and you are taking on staff. The first thing you want to know is, 'How do I pay them and what are they entitled to?' Generally, people who are employing people want to treat them fairly, so they want to would know what their staff are entitled to overall. It used to be so easy—you would get a copy of the award and you would know you were doing the right thing. You also knew what rates and conditions your competitors were applying and you could factor this into your price structure—but not anymore. Now you have a narrow cast of matters in awards and no idea what may be housed in the agreements and AWAs applied by your competitors. This can result in a loss of business, because you can be undercut by competitors, or a loss of staff, who are attracted to better-paying jobs. Awards provided certainty for both employers and employees—but not anymore. The ideological bent of this government and the larger employer unions has won the day yet again. I am sorry, I am not allowed to call them 'employer unions'; they are associations. They are not amalgamations of people protecting each other. No—that would be absurd. They are associations.

The Australian Chamber of Commerce and Industry, ACCI, supports even further reforms to the awards system to create a framework which sets out only pay and leave conditions, much like the ill-fated Victorian IR system introduced by the Kennett gov-

ernment. That has now been consigned to the dustbin of history, thanks to the passing in this place of a bill introduced by the government—the Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2003. The notion of stripping back completely has been a failure. It was a failure in Victoria and it led to the government actually introducing a bill to overturn that. So they know it is a failure. They know that award simplification is a failure because it creates too much confusion and it leaves employees exposed. It is ironic that we are being lectured about how we are terrible about passing this bill when the government has already moved a bill in this House to reinstate conditions stripped away in Victoria, arriving at the same set of conclusions about those things that people in the larger employer associations want to achieve.

This exercise proves that there needs to be greater certainty about pay and conditions. Not every workplace has the capacity to undertake enterprise bargaining, especially small businesses. ACCI and the like do not represent the concerns of small business. Further, we still need the safety net—a set of conditions which the commission can rule a line under and say, ‘You can go no further than this.’ Sadly, this bill continues the erosion of the Australian Industrial Relations Commission’s powers, which the government started way back in 1996. Of course, way back in 1996 we saw the best erosion when they took away the powers of the AIRC to ensure that people bargain in good faith. Nobody on the other side of the House talks about bargaining in good faith. Nobody talks about the savage lockouts experienced by employees that this government has allowed and more or less encouraged by the legislative enactment that they have put through. Regardless of what the AIRC may think is appropriate for awards and no matter what they may arbitrate in the commission,

the government will simply legislate away what can be dealt with in awards. This is what we have before us.

The government spelt out its plan to denude workers of any vestige of rights in their workplaces back in 1996, with the joke-titled Workplace Relations Legislation Amendment (More Jobs, Better Pay) Bill. This bill before the House today is merely another stage in a long trip to rip things off employees to repay the government’s masters who fund their election campaigns. This bill before the House would remove the following matters from federal awards: skill based career paths, bonuses, long service leave, notice of termination and jury service. In addition, some allowable matters would be restricted: training or education matters, rights of unions to take part in dispute settlement procedures, and transfer of one type of employment to another. Also, allowances would no longer include accident make-up pay, cultural leave would be limited to ceremonial leave for Aboriginals and Torres Strait Islanders and other similar types of cultural and religious observation, public holidays would include only government-declared public holidays and therefore not union picnic days, and the scope for awards to contain matters incidental to specific allowable matters would be narrowed. So there is a lot that this bill actually contains.

What are these areas that we are talking about? Skill based career paths are being taken out of awards. I can remember that, back in 1987, we went through an enormous amount of work to introduce skill based career paths into awards. There was a great sense of joint work between unions, employers and employees to establish those career path skill models. It has actually been demonstrated that taking these out of awards takes away the urgency for employers to actually engage in training staff. We have seen the absolute skill shortage we have in our

society today. You need only to look at the lack of apprentices around us—and I mean genuine apprentices; ones who are going to walk out after four or five years with a specific trade certificate—to know that this type of narrowing of our award conditions is having a detrimental impact upon our economy. You need only to look at the job vacancies that cannot be filled, particularly in some regional areas, because there are no skilled people out there. One of the big reasons, of course, is that everything was privatised by various Liberal state governments so we do not actually have instrumentalities anymore that are training up apprentices. You also do not have employers taking on apprentices. This is a green light to say, 'Training in the workplace is not important.' We used to talk about the lucky country, keeping up and continual learning, but this actually gives the green light to saying, 'It's not important; don't worry about it.'

The other interesting matter is the removal of jury service. This is fundamentally ridiculous. It is important for the legal system to have certainty that people will actually serve on juries. If they have confusion with their employer about whether they can go and what happens to their pay when they go, it is now all nice and set—it is all very easy and it is there in the award. It says: 'Yes, you can go. You'll get your jury payment and we'll make up the rest of the pay.' It is very simple. Why take that away? Why let that fall over?

It is like the absolutely ludicrous situation of the first allowable matters case, which took out blood donor leave. We now see a crisis in our supply of blood; there is actually a correlation between when the provision came out and the drop in the supply of blood. Other factors have been involved as well, but some work has been conducted to demonstrate that there has been a falling away in the number of people donating blood. They

cannot say to their boss: 'The mobile van is up the road. I think I'll go and donate some blood. Is that all right?' It used to be in the award, and they used to be able to say it was there. They would ring up the HR department—the person who looked after pay, personnel and that sort of stuff—and ask, 'Is that all right?' and they would be told, 'Yeah, off you go.'

We have a situation at the moment where people who are receiving regular plasma transfusions for various illnesses are being told, 'Sorry, you can't have them.' This has been reported recently on radio in Victoria by Kylie Millar, a writer for the Green Guide. She can no longer receive her regular plasma transfusion because of the lack of supply—she cannot do it. This is putting her health at risk, because there is not the supply out there to support her. This is ludicrous; it is penny-pinching stupidity. It has an adverse effect; it is creating problems instead of solving them. It is like, in the first round, taking out Army Reserve leave. There is massive confusion around employees, again, going up to their boss and saying: 'I've got a regular two-week camp for my reservist training. I've got to go on it. What happens now?' The employer scratches their head and says: 'I don't actually know. It used to be in the award. It's not there. I haven't signed it off in the EB. I don't know. I don't think you can go.' If they do not go, they do not qualify in their reservist training. I would have thought that, in these uncertain times in our lives, we would want to encourage people to belong to the reservists and to be doing things, as opposed to putting an impediment in their place. Taking away jury service is going to cause the same problems that the removal of blood donor leave and Army Reservist leave has caused; it is not going to help anybody.

The other matter is the removal of long service leave. We have had employer associations saying, 'Please don't do this to us; it

is going to create confusion.’ Way back in 1999, when this was first mooted, the Victorian Automobile Chamber of Commerce said:

Our associations have some reservations in relation to the proposed changes ... in relation to the removal of long service leave from the allowable matters. We would see that that would create administrative burdens to members, especially where they have national businesses operating across state borders. Removing the long service leave provisions from federal awards for our members ... would subject these sorts of businesses to a multiplicity of different arrangements across different states, including different access times to long service leave and different outcomes in relation to the amounts of leave that are due ...

Yes, it is very simple: take it away and create confusion—particularly amongst small businesses, which the Victorian Automobile Chamber of Commerce represents. They do not need more confusion; they need certainty. Awards give them certainty.

Another issue is the reduction of transfer from one type of employment to another. Again, this is about reducing choice; it is about reducing choice for employees. In this day and age, people move in and out of modes of employment—particularly women returning to the work force after having children; they need to have greater choice, not less choice. We have the terrible situation, which was recently reported in the poverty inquiry report handed down by the Senate, of people who are in the work force but are living on subminimal amounts. They are all casuals in the work force but they would like to become at least permanent part-time workers, because it would give them some certainty. When they rock up to the bank they can say, ‘I am employed’—although it might be part-time—as opposed to saying, ‘I’m a casual,’ and being told: ‘No, you can’t have a bank loan. No, you can’t take out a loan to buy a car. No, you can’t have a credit card.’ Those in full-time employment take all those

things for granted. This gave certainty to employees about choice. It also gave certainty to employers, who can say: ‘Yeah, you can transfer in and out. This is how we’ll do it. This is what happens to your terms and conditions. This is what happens to your pay.’ That is gone; it is eroded—and it creates confusion.

Awards have already been stripped back—a massive task undertaken by unions, employers and the commission. The commission still has not undertaken the award simplification process passed by the last bit of legislation, because it is a huge task to go through an award, clause by clause, and say: ‘This has got to come out. This has got to go in. This has got to be written.’ Hours and hours of work go into that, so we do not need to put more imposts on business in undertaking these tasks.

Last night I spoke in this House about the net effect that the stripping back of allowable matters has had. There was a case cited in the paper yesterday about a young employee at Westco. This employee was forced to wear a rather provocative T-shirt that caused her great distress. She had the bravery to say to her employer that she did not want to wear a T-shirt that was very tight and had written across it the words ‘Don’t pretend you don’t want me’—which is provocative on a very tight, white T-shirt. If the allowable matters had not come through last time, her employer could not do that. The previous federal shop assistants award had a clause that stated that employers could not require employees to wear revealing or indecent clothing that would cause the employee embarrassment. There was a clause in the award that stopped the employer doing that.

So why was there that clause? The Shop Assistants Union, back in the eighties, had a plethora of cases of women being required to be topless in the work force. There was this

great marketing ploy in hardware and spare parts stores that they would employ topless sales assistants, and there was no provision in legislation to actually stop this from happening. So they put a very sensible clause in the award. It did not cost anybody any money; it just said that an employee could not be asked to wear revealing or indecent clothing.

So we have this ludicrous case of teenagers, particularly within the retail industry—and particularly within Westco—being demanded to wear sexually explicit advertising, more or less. Westco management said, ‘We just thought it was cheeky and provocative, and it has been demonstrated that it works because people have been buying our T-shirts.’ It is one thing to choose to buy a T-shirt and wear it, but it is another thing to be forced to wear it in the workplace. We have the case of a poor girl who was brave enough to say, ‘No, I don’t want to wear this,’ and took it off after a male customer had harassed her. Funnily enough, if the T-shirt you are wearing has a line on it that says ‘Don’t pretend you don’t want me’, you might think you are going to get a bit harassed by the male clientele. She was sent home. She was sent home because they had a policy of no T-shirt, no work.

Westco had to back down on this because there has been such a hue and cry, but they still cannot understand why it is wrong. If that provision had been in the award, it would have been simple: that young girl could have rung up the HR area, the help desk or Wageline and said, ‘This has been asked of me; where do I stand?’ They could have read out the provision in the award and said, ‘You don’t have to do this.’ Instead, she got sent home without any advice. She is a very brave soul, and I trust that nothing is going to happen to her employment.

I think it is hypocritical that the minister for industrial relations in this place—the great moral crusader—is forever telling us about the great moral stance he wants to take in life. What is he saying to parents of teenagers who work in these stores across the country: that it is perfectly all right for your teenager daughters to be exposed to this sort of sexual harassment? It is laughable. If the award had not been changed, there would have been the ability for the staff to say, ‘No, I don’t have to do that; I’m protected by my award.’

I think Rob Hulls, the Victorian Attorney-General and industrial relations minister, summed up this government’s IR credentials well. Back in February 2002, it was reported that:

Hulls compared the federal Workplace Relations Act to a dinosaur with an anti-family, anti-women and outdated IR agenda.

“Unfortunately, Tony Abbott—

the then minister—

believes that the only way that an industrial relations regime will work is to encourage conflict, to get two parties into a ring, allow them to beat the tripe out of each other and let all the spoils go to the last person standing,” he said.

The current workplace relations minister continues the tradition through yet another obnoxious, unnecessary bill—and we should reject it.

Mr JOHN COBB (Parkes) (1.10 p.m.)—I rise to speak on the **Workplace Relations Amendment (Award Simplification) Bill 2002** because, like 40 other bills, it is designed to make small business more efficient. It is primarily designed not only to allow all business and employment in Australia to be good for those who have a job now but also to make it easier for small business—in fact, all businesses around Australia—to employ more people in the future. The core difference between those opposite

and us is that, while we look after those who now have jobs, we are always trying to get employment for those who do not have a job. Without a doubt, the current Leader of the Opposition, the member for Werriwa, and his party are more about keeping the union happy and getting perks for those with jobs than about trying to create new jobs.

This bill is about delivering to business what they have been asking for; that is, a simple regulation and a clear definition of the allowable award matters for employee contract negotiations—in other words, a simplification to make it easier for everyone, but especially small business and the employees of small business, to reach a simple agreement directly between employee and employer without being part of a union contract.

There are 20 allowable matters in the Workplace Relations Act that can be addressed by the Industrial Relations Commission. They make up the minimum award or safety net provisions for Australian employees. Those allowable matters are listed in paragraph 89A(2) of the act. The award system is a safety net. It is a minimum set of conditions which must apply to employees and employers in any field of endeavour or work. I think what business and government agree on here is that we should not be totally prescriptive—in other words, we should not put in a set of principles that cannot be varied and cannot help either side with respect to wages and conditions. We believe that employers and employees should be able to sit down and have the flexibility to negotiate a wage package that allows both sides to make the most of their opportunity in the situation they are in and that, at the same time, guarantees a safety net and satisfies the minimum standard.

Obviously each workplace will have unique circumstances, irrespective of the

industry and the particular conditions involved in it. Differences can and must be accommodated, and that is what this bill is trying to provide for. The amendments will provide clarity for employers as to what those minimum standards are and how they have to be incorporated in a voluntary agreement. The amendments will provide a concise reference for the Industrial Relations Commission to arbitrate where a dispute takes place. All that is pretty much common-sense and, I would have thought, beneficial to all sides. I certainly believe it will make it more possible for small business or any other business to expand and to chance its arm.

You would imagine that anybody would support such a circumstance; but will the Labor Party? No, they will not. Why? Quite obviously their union masters, the backroom boys of the Labor Party, will tell the man they direct, the member for Werriwa, that they do not want it. In other words, they do not want workers having freedom. They do not want a worker to be able to negotiate his own provisions in the workplace—not even when they meet the safety net or when they would be beneficial to the worker. That is not what they want. Anything that is not prescriptive, anything that does not put the union in the forefront, is of no use to them.

All of this totally ignores the fact that governments, the nation and employers are in the business of employment and production, and I would have thought that getting the maximum number of people in jobs would be at the forefront of everyone's mind—not giving the maximum number of union people a place in the movement of the work force. I think it would be very fair—when you read this sort of thing—to call the Labor Party 'the unemployment party', because what they are supporting is certainly more in the interests of unemployment than getting people into jobs.

This government believes in a minimum safety net, but it also believes in a situation that is not so prescriptive that it inhibits the negotiation of a more mutually—and I stress ‘mutually’—beneficial package of work. This coalition has an incredible record, and I suppose this marks upon those opposite; it has had a very proud record on industrial relations over the last seven years. It has delivered more jobs, higher wages, lower unemployment and fewer industrial disputes than the previous Labor government of 13 years. We want to continue that. We have every reason to do that, and so does Australia, so does business and so does anybody who is a prospective worker. We wish to have the positive reforms that I have already spoken about to entrench minimum standards, but we want simpler, fairer unfair dismissal legislation as well. What does Labor want? They want what we used to have: total regulation and a fully centralised negotiation system of workplace awards. In other words, they want union domination, union control and a say in everything a worker does—no matter whether the worker wants it or not.

Industrial relations is a further example of why we must look at what Labor do, as the Treasurer says, and not what they say. The present opposition will say virtually anything in the light of day in an attempt to look good; but at the same time they are quite happy to tear the guts out of business, especially small business, to appease the unions behind them. You only have to look at what they have done to see that. The best example of that is the ALP National Conference of January 2004. It gives an incredible insight into what a retrograde step Labor and the unions want to take in industrial relations. The Australian Chamber of Commerce and Industry have extensively reviewed the January 2004 policy, and they concluded that the policy would adversely affect the interests of private em-

ployers and compromise economic development. They also said that it would heighten trade union activity and have significant implications for jobs and employment. In this blunt and comprehensive assessment, the ACCI calls upon Labor to at least look at what Paul Keating tried to do. He failed, but he tried to have a less centralised workplace relations system. But his successor, if you like, the member for Werriwa, certainly cannot do that. He will not even follow the industrial relations attempts made by the previous Labor government.

I must comment on some of the statements and positions adopted by the opposition and the unions. The Victorian construction union branded Prime Minister John Howard, our leader, an industrial firebug. We have been anything but that, and we have proved that over the last seven years. With our economic management, construction activity has increased, jobs have increased and wages have increased. If this government are guilty of anything in industrial relations or productivity, we are guilty of providing jobs, of making sure wages and salaries are growing along with production, and of ensuring the forward movement of this economy and its growth in real terms. Yes, we are guilty of that.

What is our record? We have created more jobs in the last six months than the previous Labor government created in its last six years. The current Labor opposition are proposing—and I think this is an enormous point—to revert to processes and policies that were discarded by their predecessors during the Keating government’s modest attempt at industrial relations reform. It is not just employers that should be afraid. Workers should be afraid—very afraid.

Let us take a look at where Labor wants to take the country. Forget the rosy words used by the member for Werriwa. Look at what it

is doing. Look at where it will lead us. The bill is about the amendment of allowable matters, and I think we have got to look at that. The proposal is to limit the types of allowances that can be included to monetary allowances payable to employees for expenses incurred in the course of their employment, for particular responsibilities or skills such as handling hazardous materials, or for work in particular conditions such as confined spaces or remote localities. Yet Labor would oppose this.

Labor seemed to want any additional allowance to be included in the award and to therefore preserve the right of the union to call industrial action if that allowance, no matter what it was, was not to their liking. We would be back to the union controlled workplace. I would like to give an example of what that was.

Some members may remember the dim sim allowance—a debacle on the Sydney waterfront over 10 years ago. Construction workers on the Sydney waterfront objected to a local Chinese restaurant cooking dim sims—it might sound funny but it is serious; this is what happened—and demanded a weekly dim sim allowance equivalent to the price of a Chinese meal, just to keep them on the job because they did not like the smell of dim sims cooking. If members opposite want to question that, they can ask their mates in the Waterside Workers Union about it.

I imagine the unions are rubbing their hands together at the thought of returning to that kind of industrial mayhem and lack of productivity if the Labor opposition have their way. Heaven forbid: if the member for Werriwa leads a government, obviously that is where the unions will take us.

There is another allowable matter entitled 'Public Holidays'. The amendment before the House clarifies these as including only those holidays gazetted by state and territory

governments. In other words, any other days off are a matter for a workplace agreement or enterprise agreement and are not part of any national award. Again, we cannot return to the days where our national productivity is compromised because of union demands for days of rest or other issues which result in lengthy strikes, and have done in the past, or expensive Industrial Relations Commission involvement.

When the coalition government assumed office in 1996 there were massive structural inefficiencies in the workplace causing businesses to be uncompetitive in the world market. There was incredible unemployment—approximately one million people—and a union movement that was totally restricting efficiency and productivity.

Labor and the unions controlled the industrial relations agenda to the point where there was virtually no—I stress 'no'—optimism within the business community. The union movement, supported by the Labor government, was far more interested in rorting the system, getting more holidays and getting every little dim sim they could than they were in employment. The result of that was one million people unemployed, and there were no new jobs. By fixing the economy and lowering interest rates this government has created not just business and productivity, but jobs, better working conditions and better wages.

What no-one on the other side of the House understands is that without profits we not only do not have pensions but we also do not have the ability to provide better conditions, because we cannot pay for them. We can pay for them in the short term but they do not last, because businesses go broke.

As the ACCI acknowledged in their review of Labor's industrial relations platform, at least Paul Keating tried to address some of these matters. He failed but at least he tried.

The present opposition leader, the member for Werriwa, and those behind him, appear to lack both the will and the fortitude to do what is necessary. Just as their populist politics at the moment have absolutely no guts, no forethought and no future, what they are doing in industrial relations is what the popular union at the time wants.

This government has shown that it still has the will. It is still producing good policy and is, for the 41st time, trying to make certain that we get changes to the workplace that not only allow small and larger businesses to do better but also mean more jobs for more people. That is something the unions and Labor do not seem interested in.

I refer once more to the waterfront. We reformed that industry to the point that the average container moves per hour went from 16 to 30. We have averaged over 25 lifts per hour for the last 13 consecutive quarters. Despite knowing what a mess the waterfront was, Labor governments around Australia combined with unions to try and block those reforms. Happily for Australia—for workers, for small and large businesses and for the debt of Australia—they were not successful. I think a lot of people have a lot to thank Peter Reith, the former industrial relations minister, farmers bodies around Australia and all those involved with those reforms for, for simply fixing that situation.

This government is about more jobs, not more rorts. Even members opposite must admit—they cannot dispute the fact—that, after eight years of coalition government, there are more people in work, unemployment is at half the rate it was under Labor and real wages are better, yet Labor still oppose the industrial relations reform program. It is time the public were aware of their duplicity and coercion, with unions, not to get more jobs but to get more rorts. The ACCI has looked at Labor's policy and seen the

real need and the real danger. The ACCI said that it does not care which political party is in government, as long as there are policies to enable businesses to do their business and provide jobs and productivity.

There is nothing new in Labor's policy or actions. Labor's industrial relations platform is a return to centralisation and regulation. It is a rehash of a failed past policy that nearly broke Australia and, among other things, led to \$96 billion worth of debt and interest rates of over 20 per cent—I know; I saw those high interest rates and had mates who went broke because of them.

Labor would turn control of our industrial relations over to their union masters—a body that even workers are deserting. That is what all this is about. They will not back off because they are down to 17 per cent union membership and Labor, being funded by the unions, are trying to help the unions get their membership up when everything the coalition does—economic management, more jobs, better jobs for better money—is helping to drive union membership down. When it was high, there were one million people unemployed.

This is a bill designed to help not only business, especially small business, but everybody. This bill is designed to create more jobs and give more people a better lifestyle. Let us pass it; let us get sensible.

Mr GAVAN O'CONNOR (Corio) (1.30 p.m.)—I note the contribution of the member of Parkes, a good unionist from New South Wales. He is a former member of the farmers union in New South Wales, and I am wondering why today he has turned on fellow unionists throughout Australia. I remind the honourable member for Parkes that I had mates who went out of business during the Fraser Liberal years. At that time, the current leader of the Liberal Party was the Treasurer of this country, and he left Australia with

massive debt, double digit inflation, double digit interest rates, double digit unemployment and a negative growth rate. That was the great legacy of the current leader of the Liberal Party and the Prime Minister of Australia, and I welcome the opportunity to remind Liberal members in the House today of the record of the Prime Minister.

The title of this bill says it all. It is the *Workplace Relations Amendment (Award Simplification) Bill 2002*. The House might wonder how it is that we are debating a bill that was brought into this place in 2002. The former industrial relations ministers in this government are a bit like plastic dummies. You blow them up, you knock them down, and they bounce up again and keep bouncing up. I thought that the current industrial relations minister might be cut from a new cloth, but his performances in this place indicate that nothing has really changed on the Liberal side. They are still following the current Prime Minister's agenda. He has a very simple agenda, but he has not managed, in eight years, to get much of it through. He did get the GST through; that was a central plank of his agenda. He wanted to privatise the whole of Telstra, but he has not been able to do that, because of the actions of members of another place. And, of course, he has tried time and again to introduce his industrial relations system—that great Liberal race to the bottom, which we have seen over the last seven or eight years. He has not been able to get that agenda completely through this parliament, and that is the reason we have this legislation here today.

The current minister really is a bit like a plastic dummy, like his two predecessors. You knock them down and they pop up again. He has come into the House with this hoary old bit of legislation which is designed to strip away the awards of Australian workers. I say to members opposite: at the end of the day, who do you think you are driving the

boot into with this legislation? It is the working families of Australia. That is whom you are doing it to. You might go home from this House on Thursday evening, go out on the golf course on Friday and forget about this pernicious legislation that you have brought into this place. But I certainly will not forget and neither will the workers of the Corio electorate. It is the same hoary old Tory agenda that you keep trotting out in this place and that we keep on rejecting. Keep on doing it; we do not mind. You only have a few more months to do it, and then we will have the reins of government and we will sort out this whole area once and for all. I note the presence in the House of the member for O'Connor, who will follow me in this debate. He is a good prime ministerial loyalist from many years back. We know his history. When the honourable member for O'Connor gets up and says what a good bloke the current Prime Minister is and how good his agenda is, we will know exactly what is in his heart.

With this bill, the government is yet again seeking to tear away at the safety net employment conditions that have been assembled for working Australians over 100 years. This bill would further reduce matters that can be included in awards from the current 20 matters to 16 matters and would put limitations on some of the remaining 16. It follows the 1996 first wave of industrial relations amendments that restricted allowable matters to 20.

The government always comes into this place chanting the mantra of choice but, when it comes to choice for employees and choice of matters that can be included in awards, the government wants to restrict choice. Do not take any notice of what the government says about choice; it is what the government does that counts, and the government is consistently trying to restrict

choice for working Australians and for workers in the Corio electorate.

After reducing the number of matters that could be included in awards to just 20 back in 1996, the government, in its failed second wave of industrial relations changes in 1999, tried to further reduce the number of allowable matters. The Senate—which, as we know, is broadly representative of the Australian community in terms of the political parties represented there—rightly rejected that legislation in its entirety. The attempt to remove picnic day holidays from awards was also in the Workplace Relations Amendment (Tallies and Picnic Days) Bill 2000. The picnic day aspect of the bill was also defeated in the Senate. In his second reading speech on that bill, the then minister—who is now the Minister for Health and Ageing—acknowledged that these provisions had been tried on before. He said:

The government is now in a position to introduce a further single issue bill drawn from the More Jobs, Better Pay Bill 1999.

You really have to give the government full marks for trying. This piece of legislation has been soundly rejected by the Australian parliament time and again. You would think the dummies on the other side would wake up. What they have given us in this election year is a great campaigning tool. I will make sure that every working household in the seat of Corio understands fully the implications of what the government intends to do to their wages and conditions. And it will happen again; my majority will just keep climbing. The government is at it again. It is obsessed with tearing away the award safety net that prevents the working conditions of vulnerable Australians from falling through the floor. These provisions were unacceptable in 1999, they were unacceptable in 2000 and they are certainly unacceptable now.

Let me make some comments on major aspects of this legislation because it is very important that people understand what this government is attempting to do in this legislation. I want to make some comments about Australia's award system, that unique system of award provision in Australia that has underpinned the living standards of working people in this country for many years. This award system was established over a 100-year period. Awards ensure that conditions of employment cannot fall below a decent level. They ensure that employers cannot compete on the basis of reducing employment costs below an acceptable community standard. It is a pretty simple proposition. Even the dummies on the other side of the parliament can understand this one. There is a level of conditions that Australian workers should enjoy in the land of plenty. The traditional way of ensuring that has been the award system.

Awards are traditionally made and varied by the relevant industrial relations commission, which makes an assessment of what is fair in all the circumstances of each case, following submissions by the affected parties. So it is not just the union movement—that great and magnificent obsession of the Liberal Party and The Nationals—that gets to argue the case before the Industrial Relations Commission, the independent umpire; it is all parties that have an interest in a particular issue.

This bill subverts this whole system by simply taking away award standards through legislation, rather than giving the parties the opportunity to explain their respective cases before that independent commission. By doing this, the government further weakens the role of the independent umpire, the Industrial Relations Commission. This forms part of the concerted attack that the government has made on the Industrial Relations Commission since it came to office. In 1996, the

government took away the commission's powers to settle industrial disputes and to require the parties to bargain in good faith. If a Latham Labor government is elected, one of the first things that it do will be to strengthen the role of the Industrial Relations Commission and require all parties—unions, employers and any other groups—to bargain in good faith before that commission.

The commission's power to make awards was limited to 20 allowable matters. By previous legislation the commission was required to undertake a complex and time-consuming process of stripping awards of non-allowable matters. This process would have to be repeated if this bill were passed. In the last few years, the government has blatantly disregarded the convention of making balanced appointments to the commission. It has stacked the commission with members almost exclusively from business backgrounds. This bill continues the process of undermining the commission by effectively saying to it, 'It doesn't matter what you decide or what you think is appropriate for inclusion in awards; we will delete the bits we don't like through legislation.'

The bill will remove the following matters from federal awards: skill based career paths, bonuses, long service leave, notice of termination and jury service. In addition, some allowable matters would be restricted: training or education matters, the rights of unions to take part in dispute settlement procedures, and transfers from one type of employment to another. Allowances would no longer include accident make-up pay, cultural leave would be limited to ceremonial leave for Aborigines and Torres Strait Islanders and similar types of cultural and religious observation, public holidays would only include government declared public holidays, and the scope for awards to contain matters incidental to specific allowable matters would be narrowed. I want to talk about some of these

matters in great detail because they impact on my constituency—on working families in the seat of Corio.

Let us turn to the skill based career paths and training element of this bill. Removing skill based career paths and training and education matters from awards is the latest step in the Liberals' long and winding road to low skills and low wages. The Liberal way is a low road to low skills and low wages. In the 21st century the key sources of productivity growth are skills and ideas. Today's productivity growth is tomorrow's prosperity. The Howard government has failed to invest properly in skills formation in Australia and it has jeopardised future productivity growth and the prosperity that will flow to Australians from it. This was neatly summarised by the Labor senators in their report to the Senate inquiry on similar provisions in the 1999 second wave legislation. They had this to say:

The proposal to remove training and skill-based career paths from awards indicates that the Government has not properly considered its amendments to allowable award matters, or is simply motivated by an unreasonable ideological desire to downgrade the Commission and its awards.

They got the second part right. That is the real motivation of all of this. They went on to state:

As witness after witness pointed out during this Inquiry, it would be insane to remove training provisions from awards. It is not in the interests of the Australian community or the economy.

The amendment would send the wrong signal to employers and employees about the importance of training and skills formation.

For heaven's sake, we have one of the lowest levels of private sector commitment to education and training in the OECD. They continued:

Many employers and employees have spent a great deal of time establishing industry-wide training frameworks. If these industry-based

structures were removed, many employers may not have the time, resources or inclination to renegotiate training and career path structures for their own workplaces.

I think that was a sensible contribution by the senators. The Productivity Commission has found that skills formation slowed down during the 1990s, making no significant contribution to productivity growth.

The Howard government wants to consign Australia to being a low skill, low wage society competing on wage costs against the countries of East Asia. The government has entered vulnerable working Australians in a race to the bottom. It is a race we should never have entered and a race we should never want to win, but that is the Liberal way. Stripping skills out of the award system is callous and heartless, but again it is the Liberal way. The government is sacrificing the future living standards of working Australians.

The bill would make non-allowable any provisions about the transfer from one type of employment to another, such as the transfer of full-time, part-time or casual employees. Job security is a big issue in Australia, with 27 per cent of our work force in casual employment—that is, 2.2 million Australians—and 60 per cent of them working in the same workplace for more than a year.

Nobody denies that casual employment can play a valuable role in providing a ready work force in peak seasonal conditions, whether it be in agriculture, tourism, hospitality or retailing. In many cases it suits employees to have a loading to compensate for no job security or leave entitlements. But in many other cases employees are employed regularly for a long time but cannot get the job security they want and need, both for peace of mind and to access home loans and other bank loans. I have working poor in my community in Geelong, people who are

working as casual employees, who cannot enjoy the same access as many other Australians to the basic things that most of us take for granted.

The recently released report of the bipartisan Senate inquiry into poverty found that 21 per cent of households, or 3.6 million Australians, live on less than \$400 a week—less than the minimum wage. The report said:

The prevalence of working poor households in poverty is due simply to low-wage employment. Driving this change has been the casualisation of the workforce in the last two decades and a more recent weakening of the industrial relations systems.

That is a bipartisan Senate report putting the finger on the government for its attempts to weaken the industrial relations system in this country. The Industrial Relations Commission is currently in the process of putting provisions into awards to allow regular, long-term casuals to ask to transfer to permanent employment. Employers can refuse such requests if it is unreasonable for their business. This provision is already in the metals award and the hotels award. It provides a balanced and sensible response to the issue of casual employment.

This bill would take this provision out of the awards that already have it and stop the commission from putting it into any more awards. Again, it involves this government removing choice for the work force. When the Liberal Party talks of choice it means choice for a few, not choice for all. The Industrial Relations Commission, with its skills and expertise in workplace matters, has decided that these casual conversion provisions provide an appropriate response to modern workplace issues. But the government is not only negligently ignoring modern workplace issues but also stifling efforts by other bodies that have innovative solutions to these very important matters.

I will turn to the issue of long service leave. There would not be any member of the House opposite who has not taken their long service leave at some stage, I would imagine. The proposal to remove long service leave from federal awards is, again, ridiculous. Removing long service leave would mean that workplaces would revert to relying on state long service leave laws, which vary from state to state. This could have adverse consequences for both employers and employees, depending on each particular award provision and state law.

The removal of long service leave from awards would particularly affect employers operating in more than one state. It would mean that multistate businesses that currently have one award standard for long service leave would instead have to apply several different long service leave standards depending on which state their workers are in. There are other provisions relating to the union picnic day, jury service and enterprise bargaining, but I will not make reference to them. (*Time expired*)

Mr TUCKEY (O'Connor) (1.50 p.m.)—Contrary to the inferences throughout the speech of the member for Corio, there is nothing in this legislation designed to reduce the remuneration of Australian workers. The only employment group to have any fears relative to this legislation are those employed in the union bureaucracy. That is not an unsubstantiated claim. Throughout the life of the Howard government, Australian workers' remuneration, measured in what they can buy for their wages—technically known as real wages—has risen every year. Throughout the period of the Hawke-Keating-Kelty government, it was openly admitted, sometimes in a boastful way, that that government had achieved a reduction in the real wages of workers. Yes, every couple of months that wonderful accord delivered them more cash, but it flowed through the economy. By the

time the wife of the worker got down to the shopping centre she could actually buy less, having received an increase in wages, discounted in the first instance by the extra tax they had to pay.

The first thing we have got to understand is that this is an attempt not to achieve a reduction in the real wages of workers but to remove the various hurdles to employment. I find it quite interesting that the member for Corio said, 'Who do you think you are driving the boot into?' That is not only bad grammar; that is a ridiculous statement when you realise the facts I have just put before the House. Eighty-three per cent of workers have decided it is much more attractive to deal directly with the boss than to wait for a trade union bureaucrat to go off to their mates—frequently the same people as in the past—in the Industrial Relations Commission to put all these problems in their way.

The member for Corio runs this constant campaign that has been coming from those on the opposition benches throughout this debate—hand on heart: 'I'm only here to defend the workers.' Well, 83 per cent of them have said, 'Buzz off.' Of the other 17 per cent, half were recorded as voting Liberal. So who are the opposition looking after? I do not know what percentage of Australian workers are employed directly in the trade union movement or associated activities such as the IRC, but they seem to be the only ones that are worried about the change in the way Australia operates.

Let me give you another fact about what happens when you start putting hurdles in employment. There has been a massive change, well recognised throughout Australia, in the availability of technology. If you have done first-year economics, it is a well-known factor that employers have always had a choice, going right back to the days of the Industrial Revolution and the Luddites—

the first people who tried to stop change. An employer can use capital to buy machinery or technology, and that technology extends today, as we know from reading our newspapers and from other media, to being able to employ somebody in India to do the job in Australia for you. That is what technology is doing.

Of course, in a regime of very low interest rates, capital gets an advantage over wages. Nobody in this House is arguing for lower wages, but if there can be an easier and more productive arrangement for employing people then there is a chance that employment will get a start over capital. There is another factor in that equation; that is, if you are a small business, you frequently simply lack the capital—and lack the borrowing power because you lack the resources to back it at the bank—and/or the type of machinery you could purchase would give you productivity levels well above your customer base.

Mr Zahra—So, lower wages for more jobs?

Mr TUCKEY—So one of the best opportunities for—

Mr Zahra—Lower wages for more jobs?

Mr TUCKEY—If the member who is interjecting had two ears, he might have heard me say this has got nothing to do with wages. He of course has to worry about his own wages, as he will not be back after the next election.

Mr Zahra—Why don't you come and run in McMillan, Wilson!

Mr TUCKEY—The redistribution has caused him a little bit of trouble. I will be sorry for him, because I once claimed him as a grandson. The reality is that a small business will typically seek to employ people, because that is the nature of small businesses and they do lack that capital opportunity to buy the technology and the fancy machinery to replace workers.

In the end, as we saw the other day, there is still the good old IRC putting more hurdles between employers and the work force, giving an employer every opportunity to go home to his wife one night and say, 'Look, I've had enough of this. I know we're going to take a big risk. We'll mortgage the house and we'll buy a bit of machinery so I don't have to employ any more of these people.' That is just a fact of life. We have people sitting over there who are so worried about one little employment sector—that is, the trade union bureaucracy—that they cannot see that, unless we make it more attractive to employ people, there are other options available that will be used.

That extends right down to the fact that, if everybody in this place took off their shirt, eight out of 10 of the shirts would have 'Made in China' on them. Why is that? The average worker's wife does not ask too many questions about 'Made in China' when she has to clothe her kids on that wage; of course she does not. The member for Corio made a big thing about abdicating our wage structures to Asia. I love this place because I love the way the Labor Party can redefine history. The protective measures that used to exist—I thought, unwisely—called tariffs, were attacked by Gough Whitlam to the tune of an across-the-board cut of 25 per cent; then, within a few days, there was a revaluation of the currency, which was a double whammy for the ability of workers to get jobs. I think it has probably been beneficial, but we all know why the Hawke-Keating government lowered tariffs and why Whitlam lowered tariffs: it was their backdoor mechanism to deregulate the labour market, because they could not, for fear of non-preselection, come into this place and bring in sensible measures of the nature we are dealing with today to free up the labour market in a fashion that made it attractive to employ workers.

Yes, a good wage and good conditions—I can prove to this House when I continue this speech later—are very attractive to workers. They do not like awards, they do not like the constrictions and, what is more, if you go back to the fifties and sixties, they did not like them then. I could never find a truck driver who wanted to work under an award; he always wanted to work on trip money. He wanted to do that and he wanted to be a small-business man in his own right. This is a situation where the Labor Party wants to put roadblocks in front of employment to protect people in one sector of employment in Australia: they are of course the trade union bureaucrats.

The SPEAKER—Order! It being 2 p.m., the debate is interrupted in accordance with standing order 101A. The debate may be resumed at a later hour and the member will have leave to continue speaking when the debate is resumed.

BUSINESS

Mr ABBOTT (Warringah—Leader of the House) (2.00 p.m.)—I ask leave of the House to move a motion to suspend so much of the standing and sessional orders as would prevent the Prime Minister moving forthwith a motion concerning certain claims that the Leader of the Opposition has made about alleged briefings on Iraq.

Opposition members interjecting—

The SPEAKER—Order! I do not need interjections. I need an indication as to whether or not leave is granted.

Ms Gillard—No, leave is not granted. We would prefer to have question time.

Mr ABBOTT (Warringah—Leader of the House) (2.00 p.m.)—I move:

That so much of the standing and sessional orders be suspended as would prevent the Prime Minister moving forthwith a motion concerning certain claims the Leader of the Opposition has made about alleged briefings on Iraq.

The SPEAKER—The question is that the motion be agreed to.

Ms Gillard—Mr Speaker—

Mr ABBOTT (Warringah—Leader of the House) (2.01 p.m.)—I move:

That the question be now put.

Question put:

The House divided. [2.05 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes.....	78
Noes.....	62
Majority.....	16

AYES

Abbott, A.J.	Anderson, J.D.
Andrews, K.J.	Anthony, L.J.
Bailey, F.E.	Baird, B.G.
Baldwin, R.C.	Barresi, P.A.
Bartlett, K.J.	Billson, B.F.
Bishop, B.K.	Bishop, J.I.
Brough, M.T.	Cadman, A.G.
Cameron, R.A.	Causley, I.R.
Charles, R.E.	Ciobo, S.M.
Cobb, J.K.	Costello, P.H.
Dutton, P.C.	Elson, K.S.
Entsch, W.G.	Farmer, P.F.
Forrest, J.A. *	Gallus, C.A.
Gambaro, T.	Gash, J.
Georgiou, P.	Haase, B.W.
Hardgrave, G.D.	Hartsuyker, L.
Hawker, D.P.M.	Hockey, J.B.
Howard, J.W.	Hunt, G.A.
Johnson, M.A.	Jull, D.F.
Kelly, D.M.	Kelly, J.M.
Kemp, D.A.	King, P.E.
Ley, S.P.	Lindsay, P.J.
Lloyd, J.E.	Macfarlane, I.E.
May, M.A.	McArthur, S. *
McGauran, P.J.	Moylan, J. E.
Nairn, G. R.	Nelson, B.J.
Neville, P.C.	Panopoulos, S.
Pearce, C.J.	Prosser, G.D.
Pyne, C.	Randall, D.J.
Ruddock, P.M.	Schultz, A.
Scott, B.C.	Secker, P.D.
Slipper, P.N.	Smith, A.D.H.
Somlyay, A.M.	Southcott, A.J.

Stone, S.N.
Ticehurst, K.V.
Truss, W.E.
Vaile, M.A.J.
Wakelin, B.H.
Williams, D.R.

NOES

Adams, D.G.H.
Bevis, A.R.
Burke, A.E.
Corcoran, A.K.
Crean, S.F.
Danby, M. *
Emerson, C.A.
Ferguson, L.D.T.
Fitzgibbon, J.A.
Gibbons, S.W.
Grierson, S.J.
Hall, J.G.
Hoare, K.J.
Jackson, S.M.
Kerr, D.J.C.
Latham, M.W.
Livermore, K.F.
McClelland, R.B.
McMullan, R.F.
Mossfield, F.W.
O'Byrne, M.A.
O'Connor, G.M.
Price, L.R.S.
Ripoll, B.F.
Rudd, K.M.
Sciacca, C.A.
Sidebottom, P.S.
Snowdon, W.E.
Tanner, L.
Vamvakinou, M.
Windsor, A.H.C.

Thompson, C.P.
Tollner, D.W.
Tuckey, C.W.
Vale, D.S.
Washer, M.J.
Worth, P.M.

Albanese, A.N.
Brereton, L.J.
Byrne, A.M.
Cox, D.A.
Crosio, J.A.
Edwards, G.J.
Evans, M.J.
Ferguson, M.J.
George, J.
Gillard, J.E.
Griffin, A.P.
Hatton, M.J.
Irwin, J.
Jenkins, H.A.
King, C.F.
Lawrence, C.M.
Macklin, J.L.
McLeay, L.B.
Melham, D.
Murphy, J. P.
O'Connor, B.P.
Organ, M.
Quick, H.V. *
Roxon, N.L.
Sawford, R.W.
Sercombe, R.C.G.
Smith, S.F.
Swan, W.M.
Thomson, K.J.
Wilkie, K.
Zahra, C.J.

* denotes teller

Question agreed to.

Original question put:

That the motion (**Mr Abbott's**) be agreed to.

The House divided. [2.08 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes.....	78
Noes.....	<u>62</u>
Majority.....	16

AYES

Abbott, A.J.
Andrews, K.J.
Bailey, F.E.
Baldwin, R.C.
Bartlett, K.J.
Bishop, B.K.
Brough, M.T.
Cameron, R.A.
Charles, R.E.
Cobb, J.K.
Dutton, P.C.
Entsch, W.G.
Forrest, J.A. *
Gambaro, T.
Georgiou, P.
Hardgrave, G.D.
Hawker, D.P.M.
Howard, J.W.
Johnson, M.A.
Kelly, D.M.
Kemp, D.A.
Ley, S.P.
Lloyd, J.E.
May, M.A.
McGauran, P.J.
Nairn, G. R.
Neville, P.C.
Pearce, C.J.
Pyne, C.
Ruddock, P.M.
Scott, B.C.
Slipper, P.N.
Somlyay, A.M.
Stone, S.N.
Ticehurst, K.V.
Truss, W.E.
Vaile, M.A.J.
Wakelin, B.H.
Williams, D.R.

Anderson, J.D.
Anthony, L.J.
Baird, B.G.
Barresi, P.A.
Billson, B.F.
Bishop, J.I.
Cadman, A.G.
Causley, I.R.
Ciobo, S.M.
Costello, P.H.
Elson, K.S.
Farmer, P.F.
Gallus, C.A.
Gash, J.
Haase, B.W.
Hartsuyker, L.
Hockey, J.B.
Hunt, G.A.
Jull, D.F.
Kelly, J.M.
King, P.E.
Lindsay, P.J.
Macfarlane, I.E.
McArthur, S. *
Moylan, J. E.
Nelson, B.J.
Panopoulos, S.
Prosser, G.D.
Randall, D.J.
Schultz, A.
Secker, P.D.
Smith, A.D.H.
Southcott, A.J.
Thompson, C.P.
Tollner, D.W.
Tuckey, C.W.
Vale, D.S.
Washer, M.J.
Worth, P.M.

NOES

Adams, D.G.H.
Bevis, A.R.
Burke, A.E.
Corcoran, A.K.
Crean, S.F.
Danby, M. *
Emerson, C.A.
Ferguson, L.D.T.
Fitzgibbon, J.A.
Gibbons, S.W.

Albanese, A.N.
Brereton, L.J.
Byrne, A.M.
Cox, D.A.
Crosio, J.A.
Edwards, G.J.
Evans, M.J.
Ferguson, M.J.
George, J.
Gillard, J.E.

Grierson, S.J.	Griffin, A.P.
Hall, J.G.	Hatton, M.J.
Hoare, K.J.	Irwin, J.
Jackson, S.M.	Jenkins, H.A.
Kerr, D.J.C.	King, C.F.
Latham, M.W.	Lawrence, C.M.
Livermore, K.F.	Macklin, J.L.
McClelland, R.B.	McLeay, L.B.
McMullan, R.F.	Melham, D.
Mossfield, F.W.	Murphy, J. P.
O'Byrne, M.A.	O'Connor, B.P.
O'Connor, G.M.	Organ, M.
Price, L.R.S.	Quick, H.V. *
Ripoll, B.F.	Roxon, N.L.
Rudd, K.M.	Sawford, R.W.
Sciacca, C.A.	Sercombe, R.C.G.
Sidebottom, P.S.	Smith, S.F.
Snowdon, W.E.	Swan, W.M.
Tanner, L.	Thomson, K.J.
Vamvakinou, M.	Wilkie, K.
Windsor, A.H.C.	Zahra, C.J.

* denotes teller

Question agreed to, with an absolute majority.

AUSTRALIAN DEFENCE FORCE: DEPLOYMENT

Mr HOWARD (Bennelong—Prime Minister) (2.09 p.m.)—I move:

That this House calls on the Leader of the Opposition to withdraw his claim twice made to this House that he had 'lengthy discussions about Iraq' with officials of the Department of Foreign Affairs and Trade and the Department of Defence in the light of clear evidence that, at no stage had he sought or received briefings on policy or strategic matters relating to the deployment of Australian Defence Force personnel in Iraq.

Over the last week since the Leader of the Opposition gave his interview to Mike Carlton he has endeavoured to construct before this parliament and before the Australian people two essentially false propositions. The first of those false propositions is that a year ago the shadow cabinet resolved on a policy of supporting the immediate withdrawal of Australian troops from Iraq if a Labor government were to be elected. The

second proposition, which he has endeavoured to construct especially over the last week, is the proposition that he has had discussions, with departments, directly relevant to the question of whether or not our troops should continue to be deployed in Iraq.

Interestingly enough, this whole issue, this whole saga, can in fact be related back to an interview that the Leader of the Opposition gave on 3 December last year with Neil Mitchell. It is a very interesting interview and it is a very instructive answer. In fact, this answer brings together, presciently perhaps, the two strands of the debate which now confront the Leader of the Opposition. He was asked this very simple question by Neil Mitchell: 'Would you pull out the troops that we still have in Iraq?' The Leader of the Opposition replied in the following terms—and I think he replied very correctly and very sensibly:

Well I have got to get briefings from Foreign Affairs and from the Defence department about the detail. I can't fly in with a top of the head assessment, I have got to base my judgements on fact. I am just about 24 hours in the job and it's been a busy day and I have obviously got to get those ... briefings before I can make any sort of considered judgement about what needs to be done. But I can say this, Labor wants to play a positive role—we didn't support this conflict, but obvious problems have arisen and we want to play a positive role in finding solutions to the difficulties in Iraq ...

They were the words of the Leader of the Opposition. Quite plainly, they were the words of a man who had not remembered that the shadow cabinet months earlier had decided a policy on Iraq. I and many other Australians suspect that no such decision had been taken, and that is why the Leader of the Opposition did not remember it. And, of course, my sense that they had not taken that decision is not only supported by the words of the Leader of the Opposition, it is not only supported by the squirming of the member for Griffith on this issue—who at least is not

prepared to defend the indefensible and say straight out that there was such a decision taken—but, interestingly enough, there is evidence that that decision had not been taken in a very revealing answer given by the former Leader of the Opposition on the *AM* program on 11 April 2003, when in answer to a question from the presenter, ‘Okay, so you concede that we should have a role, that we should leave some personnel there,’ the then Leader of the Opposition said:

No no, my point is that without a UN mandated process Linda, we are going to be required to keep a military and an administrative presence there.

In other words, on 11 April last year, the then Leader of the Opposition was not upholding the shadow cabinet decision that the now Leader of the Opposition says had been taken at least several weeks earlier. But it gets even better: on the ABC’s *The World Today* program on 17 September last year the shadow defence minister, Senator Chris Evans, had this to say in answer to a question from the presenter:

As one of the three occupying powers, we have responsibilities and we haven’t been doing enough to meet those responsibilities.

In other words, within the time frame of a year you had the former Leader of the Opposition, the shadow minister for foreign affairs and the shadow minister for defence all arguing and articulating positions that are plainly at odds with the position which is now being asserted by the Leader of the Opposition that, more than a year ago, the shadow cabinet had taken a decision. Methinks they did not take any such decision. Methinks the Australian people do not believe that they took any such decision. And methinks that this is an ex post facto argument constructed to justify a unilateral policy change that was announced by the Leader of the Opposition on the Mike Carlton program last Tuesday week.

The second element of what the Leader of the Opposition has endeavoured to construct over the past few days is the proposition that in some way he has had briefings relevant to the question of whether or not our troops should remain in Iraq. That is the relevant point. He made it the relevant point with the very answer he gave to Neil Mitchell. What he said in answer to Neil Mitchell was very simple: ‘Before I make a decision on whether we pull out of Iraq, I’ve got to get advice from Foreign Affairs and Defence as to whether or not we should pull out of Iraq.’ He did not say to Neil Mitchell: ‘I’ve got to get a briefing on what happened in Iraq 12 months ago; I’ve got to get a briefing on what support services our intelligence agencies may have provided a year ago.’ What he was really saying was that he had to get advice on what should happen right now.

With the references that he has made to what are, in essence, in-the-groove and routine briefings given by intelligence agencies to an incoming Leader of the Opposition that obviously contained some incidental references to Iraq, he has endeavoured to construct out of that the proposition that he had direct briefing on whether or not Australia should maintain the presence of military forces in Iraq. What is relevant is whether or not the Leader of the Opposition has got advice that he said he would get. He said, back in December, ‘Before I take a decision on this grave matter, I am going to get the relevant advice; I’m going to talk to Defence and I’m going to talk to Foreign Affairs—I’m going to inform myself before I make a decision.’

I can inform the House that I have been advised that the Leader of the Opposition has failed to get advice from the following people. He has failed to get advice from the head of the Department of Foreign Affairs and Trade. He has failed to get advice from the Department of Defence. He has failed to get

advice from the Chief of the Defence Force. He has failed to get advice from the Chief of the Army. He has failed to get advice from the Chief of the Air Force. He has failed to get advice from the Chief of the Navy. In other words, the very people he said he would get advice from and the very people whose advice is relevant to forming a balanced judgment as to whether or not we should remain in Iraq are the very people the Leader of the Opposition has failed to address and has failed to ask.

Yet over the last few days, in an attempt to pretend about what has not occurred, he has endeavoured to construct out of some routine briefings on intelligence matters which are quite properly made available to an incoming opposition leader the impression, because of some incidental reference to Iraq: 'I've been fully informed by all the relevant people. I'm now full bottle and I've therefore taken a considered decision.' He has done no such thing. He did not take a considered decision. My theory about what happened on that Mike Carlton program is that, flushed with those very favourable opinion polls, the Leader of the Opposition decided that he would go a step further. He was egged on by the interviewer. The interviewer said: 'What about having them home by Christmas?' For the first time, to its total astonishment—and particularly to the astonishment of the member for Griffith—the Labor Party had a completely new policy in relation to the withdrawal of our forces from Iraq.

Over the past few days and at the present time we have had not only a Leader of the Opposition who has made a fundamentally bad decision about the deployment of our forces in Iraq and a Leader of the Opposition who has given the impression that, if enough pressure is applied by terrorist acts, policy in this country will be changed, but a Leader of the Opposition who has been furiously engaged in an ex post facto rationalisation of

his sudden change of heart. He has, in my view, invented the proposition that a year ago the shadow cabinet had a policy of withdrawal. To those who believe you need more than my assertion, let me simply point again to the evident discomfort of the member for Griffith, let me point to the remarks made by the former Leader of the Opposition and let me point to the remarks made by the current shadow minister for defence—all of whom were not urging us to do less, to pull out and to adopt Labor policy of bringing the troops home but rather criticising us for not doing enough. That can sit in no way with the assertion of the Leader of the Opposition that a year ago the Labor Party had adopted this policy.

Worse than that, over the past few days the Leader of the Opposition has, based on the briefings normally and properly given to a new Leader of the Opposition, tried to create the impression: 'I've had very detailed discussions about the current situation in Iraq.' That is the impression he wanted to leave. That is the impression he sought to create. The reality is of course completely the opposite. As the House will know, the foreign minister wrote to the Leader of the Opposition and invited the Leader of the Opposition to have a briefing on the situation in Iraq. The reason he wrote to the Leader of the Opposition is that he had not taken up an earlier offer. We all know from the letter from the acting Secretary of the Department of Foreign Affairs and Trade that I tabled in the parliament yesterday that there is no record of their having provided a briefing on Iraq to the Leader of the Opposition. That letter went on:

We understand that one of Mr Latham's advisers attended a briefing provided to the office of Mr Kevin Rudd on the proposed tribunal to try Saddam Hussein.

We also know from the tabled letter from the Director-General of ASIS that the assertion

made by the Leader of the Opposition—and he has made it twice—that he had lengthy discussions with officials of the Department of Defence and officials of the Department of Foreign Affairs and Trade about Iraq is wrong. The Leader of the Opposition has made those assertions twice. He made them in a personal explanation yesterday. He made them in a personal explanation again today.

Previously, outside the parliament, the Leader of the Opposition has done his level best to create the impression that he has had direct and relevant discussions with the relevant agencies about the current situation in Iraq and whether or not we should leave our forces there. It is not good enough for the Leader of the Opposition to establish that he may have had a discussion about what happened some time ago in Iraq. What we are discussing now is not whether we should have gone into Iraq; we are discussing whether we should stay in Iraq. What is important is whether the Leader of the Opposition has sought relevant briefings as to whether or not we should stay in Iraq. He has endeavoured to create the impression that that is the case.

We know that yesterday a letter was presented from the Director-General of ASIS which made it very plain that ASIS is an intelligence agency, not an assessment body. He said in this letter, *inter alia*:

According to my recollection there was no discussion on strategic policy relating to Iraq. There was no substantive discussion on the role of the ADF in Iraq.

They are the words of the Director-General of the Australian Secret Intelligence Service. Yesterday, when I made a personal explanation in the House, I indicated that my advice was that the briefing that the Leader of the Opposition had received on 5 January made no reference to Iraq. That was based on a reading of the file note that was sent to the

minister by the person who provided the Leader of the Opposition with the briefing. That particular file note contained no reference at all to Iraq. I cannot table that because of its marking, but I am perfectly happy to make it available on a confidential basis to the Leader of the Opposition. He will understand that that is because of its security classification.

The reality is that at no time has the Leader of the Opposition received any briefing on the current strategic position that relates to the deployment of our forces in Iraq. This pathetic *ex post facto* attempt to justify what he has said is totally and utterly insubstantial. This morning the Leader of the Opposition came into the parliament and purported to detail the essence of the discussions he had had with Mr Ron Bonighton, Deputy Secretary, Intelligence and Security. I will table a letter from Mr Bonighton to the Minister for Defence which deals with that particular briefing. The relevant portion reads as follows:

I worked from a standard set of briefing notes designed to cover in some detail DSD's organisation, operations, regulatory and oversight mechanisms, alliance relationships and staffing numbers. I provided a similar briefing on Pine Gap arrangements.

He then goes on to say:

There was no discussion of policy or strategic matters relating to the deployment of ADF forces in Iraq. However, I gave several examples—

and this is the point I made earlier—

of the role of intelligence in providing operational support to the ADF in Iraq and in other deployments such as Afghanistan, and I recall a brief exchange on WMD but no substantive discussion.

He goes on to say, in the concluding paragraph of the letter:

There is no mention of Iraq in my record of the topics covered in the briefing because it was not in any way central to the substance of the brief. It arose only in an illustrative context.

An illustrative context—I have heard that before. The reality is that the Leader of the Opposition never sought a briefing on whether or not our troops should stay in Iraq. The Leader of the Opposition was provided with a briefing properly available to an incoming leader. He knows that and he knows that he has misrepresented to the parliament and to the Australian people the character and the nature of that briefing.

To complete the record I am also going to table a letter from the Secretary of the Department of Defence to the Minister for Defence. It is relevant to what I said earlier. I will read two paragraphs from that letter:

I myself have not briefed Mr Latham on any matter relating to Iraq—

this is the Secretary of the Department of Defence. He continues:

I am advised that neither the Chief of the Defence Force, the Vice Chief of the Defence Force, the Chief of Navy, the Chief of Army, the Chief of Air Force, the Deputy Secretary Intelligence and Security, the Deputy Secretary Strategy nor the heads of strategic operations or international policy divisions have provided any briefing to Mr Latham on the subject of Iraq.

That is not a bad line-up. I know they are not the only repositories of advice and ability in this country in relation to Iraq, but they do not represent a bad arrangement. He then goes on to acknowledge the briefings to which I have referred and, obviously, the incidental reference to Iraq.

This demonstrates that the Leader of the Opposition has been in the business of misinforming of the Australian public. The Leader of the Opposition has been endeavouring to mislead the Australian public. Not only has the Leader of the Opposition got the wrong policy on Iraq but, in an endeavour to extricate himself from the hole he has dug for himself ever since he did that interview with Mike Carlton over a week ago, he has tried to mislead the Australian public into believ-

ing that there was a shadow cabinet decision a year ago, when all the evidence points to the opposite. He is now trying to pretend that some incidental reference to Iraq in the context of a proper, routine briefing about intelligence services represents a bona fide pursuit of advice as to whether or not our troops should remain deployed in Iraq. The Leader of the Opposition should correct the record. He should withdraw the claims that he has made in this parliament and he should stop misrepresenting. He should not compound bad policy with misleading the Australian public.

The SPEAKER—Is the motion seconded?

Mr COSTELLO (Higgins—Treasurer) (2.29 p.m.)—I second the motion and reserve my right to speak.

Mr LATHAM (Werriwa—Leader of the Opposition) (2.30 p.m.)—I move:

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

Honourable members interjecting—

The SPEAKER—The chair is tolerant, as it was during the Prime Minister’s speech, of members behind the speaker—that is, the Leader of the Opposition or the Prime Minister—echoing comments of support. I will not tolerate interjections. The Leader of the Opposition has the call. He is entitled to the call, and he will be heard in silence.

Mr LATHAM—My motion continues:

This House censures the Prime Minister for:

- (1) failing to apologise and withdraw his false allegations against the Leader of the Opposition concerning discussion of Iraq with DFAT and Defence officials;
- (2) revealing details of confidential briefings on national security given to the Leader of the Opposition by Australian security and intelligence agencies;
- (3) undermining the political independence and integrity of our intelligence agencies by

asking them to provide information with the specific intent of undermining the Opposition; and

- (4) failing to recognise that the Labor Shadow Cabinet decided 12 months ago to withdraw the troops from Iraq and misleading the House accordingly.

It is always sad to see a politician at the end of his career thrashing around for an issue. It is always sad to see a politician at the end of his long career—in the twilight months of his long career—thrashing around for an issue.

Mr Randall—What about your career?

The SPEAKER—I warn the member for Canning!

Mr LATHAM—The Prime Minister has systematically misled this House time after time after time in the contribution he has just made. I know the Prime Minister has a pretty big opinion of himself. He has tried to turn the Australian Public Service into a sub-branch of the Liberal Party. He thinks he has this ‘born to rule’ right to make all sorts of decisions around the country, but he really does take a step too far—he goes a bridge too far—when he presumes to know more about the Australian Labor Party and our policy-making processes than we know ourselves.

There is the Prime Minister trying to convince the House of Representatives that I have invented—and that was his word; a heavy claim—the proposition that, 12 months ago, our shadow cabinet made decisions on the immediate withdrawal of troops from Iraq. Why would the Prime Minister, the head of the Liberal Party, think that he knows more about the decisions and recorded minutes of the Labor Party than the Australian Labor Party itself? This is someone who has got so far out of control and has such an inflated opinion of himself—who thinks that he has some born to rule mandate to run every single organisation in the coun-

try and centralise power and authority in his own hands—that now he somehow thinks he is the minute taker at the Labor shadow cabinet. He is the minute taker—the little chap—at the Labor shadow cabinet.

Where was the minute taker, the Prime Minister, on 17 March 2003 when our shadow cabinet resolved, ‘A Labor government would immediately bring the Australian troops home from Iraq’? Do you understand that, Prime Minister? Do you understand the proposition, which was moved in the Labor shadow cabinet and carried on 17 March 2003, that a Labor government would immediately bring the Australian troops home from Iraq? Prime Minister, if you were the minute taker at that meeting, you have missed the point. You have been asleep at the wheel. You did not really know what was going on. The Prime Minister has misled the House in suggesting that I have invented the proposition in black and white in our minutes for the shadow cabinet.

It is not all that usual in parliamentary debate that a leader would be quoting minutes from a cabinet or shadow cabinet decision but, given the gravity and the hysteria of the Prime Minister’s claims, I want to put these things straight on the record. He does not know what he is talking about. He is spinning around in a total state of confusion. He does not know what he is talking about. On 17 March 2003, we said, ‘A Labor government would immediately bring the Australian troops home from Iraq.’ The very next day there was a Labor caucus resolution. Okay, let us go beyond the shadow cabinet and ask the caucus what was decided on Tuesday, 18 March. The proposition was: ‘Labor opposes the use of military forces and urges their withdrawal. Furthermore, a Labor government would immediately bring the Australian troops home.’ So there is the second proposition. Where was the minute taker, the Prime Minister, at the Labor caucus meeting? He

has this huge inflated view of himself. Where was he at the Labor caucus meeting on 18 March?

Where was our little mate the minute taker at the Labor shadow cabinet meeting on 24 March 2003, when the shadow cabinet resolved, 'A Labor government would immediately bring the Australian troops home'? This is the fantasy of someone who thinks he knows everything. When it comes to the Australian Labor Party, as ever, he knows nothing at all. He has totally got it wrong, and he has misled the House accordingly. Where was our little mate the minute taker on 12 May 2003 when the shadow cabinet passed a lengthy resolution on the postwar Iraq situation, which included a commitment in relation to security operations in Iraq to return the ADF to Australia as soon as possible?

So there are not one, not two, not three, but four resolutions from the Australian Labor Party rebutting the point that the Prime Minister has tried to make in the House today. The Prime Minister knows nothing about the workings of the Australian Labor Party and, as a consequence, his ignorance and his inflated opinion of himself have led him to mislead the House of Representatives today. Prime Minister, it is a shameful thing when, for political point scoring, you mislead the House of Representatives.

Then we come to his other claim about the nature of advice that has been given to me by intelligence agencies out of the Department of Foreign Affairs and Trade and the Department of Defence. Of course, you need to understand that the government was saying time after time in question time, 'The Leader of the Opposition over there hasn't had any discussions about Iraq with officials from Foreign Affairs and Defence.' That is what the Minister for Foreign Affairs was saying time after time last week and again in the

debate about Iraq yesterday. That is what the Prime Minister has been saying.

I was asked a question about it at a press conference yesterday, and I said, 'I have had discussions with officials from Foreign Affairs and Defence about the situation in Iraq.' Then the Prime Minister comes into question time and goes back to his assertion: 'Oh, no, the Leader of the Opposition has had no discussions about Iraq with officials from Foreign Affairs and Defence.' It is just fundamentally untrue—by his own admission. Even the material that he has presented demonstrates that I have had discussions—lengthy discussions—with officials from the Department of Foreign Affairs and the Department of Defence about the situation in Iraq.

It is interesting to go to the Prime Minister's personal explanation in the House last night. It is interesting to go to his explanation at 7 p.m. last night, because he stated, first of all, that on 5 January I received a briefing from the deputy director of the Department of Defence. He had his title wrong, so that was his first error. Then he went on to say, 'I have seen the record of interview and there is no reference in that record of interview to Iraq.' Then he said, 'I am sorry—I have not seen the record of interview.' So that was a second mistake from the Prime Minister. Has he seen the record of interview or hasn't he seen the record of interview?

Today in the House, it was instructive to listen closely to him—you always have to listen closely to him. What was last night a record of interview is now a file note. So first he has seen the record of interview, then he has not seen the record of interview and then there is no record of interview, it is a file note. Well the reason there is no record of interview is that there was no-one there recording the interview. It was a one-on-one discussion between me and Mr Ron Bonigh-

ton where there was no note taker. He was doing the talking, and I was doing the listening and asking the odd question. There was no record of interview because there was no one there to record the interview. So the Prime Minister has been caught out again misleading the House. First of all, he has seen the record of interview, then he has not seen the record of interview and then there is no record of interview and it is downgraded to being a file note.

Then, if you also listened closely to what he had to say in the House today, he pointed out that, in my discussions with Mr Ron Bonighton, we discussed the intelligence provided to the ADF in Iraq, and then he quickly said that we discussed weapons of mass destruction—as if weapons of mass destruction and the lengthy discussion about them would not have been related to Iraq. Well of course it was.

I suppose, Mr Speaker, given the Prime Minister's tactics, I have the right to defend myself here. I suppose I wish there was a record of interview giving word for word what Mr Bonighton said about the government's record on weapons of mass destruction in Iraq—what he actually said about the government's failure to find weapons of mass destruction in Iraq. I give the government and the House this guarantee: I walked away from that briefing knowing and understanding the government's policy in Iraq was a fiasco—an absolute fiasco. What is more, I concluded that the faster Australia could get out of Iraq the better—in response to that policy fiasco, in response to the problems that the government caused in relation to weapons of mass destruction in Iraq, the sooner Australia could get out of Iraq the better. So, if the government wants to ask me about the information I have gathered, I am giving you the conclusions I have made. I am giving you the conclusions I have made from the briefings I have received from officials of

the defence department and the Department of Foreign Affairs and Trade.

Of course, in relation to the ASIS briefing, it is extraordinary that the Prime Minister made public a confidential security briefing given to the Leader of the Opposition. I did not want to mention ASIS; he has mentioned them now on the public record and he has produced the letter from Mr Irvine, saying:

According to my recollection there was no discussion on strategic policy relating to Iraq. There was no substantive discussion on the role of the ADF in Iraq.

Of course that does not rule out what actually happened: discussion of ASIS security matters relevant to Iraq. So my claim, my truthful proposition, that I have had discussions with officials from the Department of Foreign Affairs and Trade about matters relevant to Iraq stands up. The government's repeated claim that I have had none of these discussions with officials from the Department of Foreign Affairs and Trade is just plain false; it is just plain untrue.

In relation to the conversations with Mr Bonighton, I stand by my personal explanation to the House earlier today when I said that I met with Mr Bonighton in my electorate office at Ingleburn on Monday, 5 January. The meeting was scheduled to go from 5 p.m. to 5.45 p.m., and my recollection is that it went longer than that. Mr Bonighton briefed me on several subjects. One was the situation in Iraq—and the Prime Minister has confirmed that—including the intelligence support provided to the Australian defence forces in Iraq and the government's failed policy in relation to weapons of mass destruction in Iraq. That was my claim: that I was briefed on the situation in Iraq, intelligence provided to our troops—and the Prime Minister calls that 'incidental'—and the government's failed policy in relation to weap-

ons of mass destruction in Iraq—and he regards that as incidental.

I mean, what has this debate been about for the last 12 months? It has been about the policy failings of this government in relation to weapons of mass destruction. None were used in the conflict and none have been found since. Your government, Prime Minister, sent Australian troops to war for a purpose that was not true, and you regard that as incidental. When I get a briefing from a defence intelligence official about that serious matter of public policy concern, about that serious matter of national concern, the Prime Minister says, ‘That’s incidental.’ Prime Minister, it is the core of the debate about Iraq. It is the core of the debate about Iraq—that you sent Australian troops to war for a purpose that was not true. And I have had that confirmed to me in a briefing from a Defence official, and I am supposed to say, ‘Oh well, that’s just incidental to the debate.’ I should just wipe that. I should just wipe that out of the memory bank. That does not matter. That was not really about Iraq. That was not about Australian policy in Iraq. That was not about our military commitment. That was not about our military engagement in Iraq. That was something that the Prime Minister would call incidental. I should just wipe that in terms of my public policy decisions and considerations. Well, Prime Minister, I am not wiping it.

The SPEAKER—Order! The Leader of the Opposition should address his remarks through the chair.

Mr LATHAM—I am not wiping it. Your government made the mistake, and we are holding you to account. We are holding you to account as we have done consistently in those shadow ministry resolutions. What is more, we are holding the government to account in terms of other information that the opposition has gathered relevant to this pub-

lic policy decision—because the shadow minister for defence, Senator Evans, receives regular updates from the defence forces about the situation in Iraq. The shadow minister for foreign affairs, the member for Griffith, has actually been to Baghdad—which is more than the Prime Minister can say; he has actually been to Baghdad—to receive all the relevant briefings.

Mr Hockey—Why didn’t you take his advice and listen to him?

Mr LATHAM—A government member interjects to ask why we didn’t follow his advice. We did, when he said the change to the interim government was the appropriate point to start up an exit strategy—exactly the advice that came out of the member for Griffith’s visit to Baghdad in November. So, Prime Minister, if the question is, having gathered advice from Defence officials and Foreign Affairs officials, in my case—and in at least one of those meetings, the one with Mr Bonington, a comprehensive briefing about the situation in Iraq—and having heard from my shadow minister for defence, having heard from my shadow minister for foreign affairs, having been through the Senate estimates process as the Labor Party, gathering all this information, if the Prime Minister wants an answer to the fundamental question, ‘Do Labor think their stance on Iraq is the right one in the Australian national interest?’, well, Prime Minister, absolutely: 100 per cent, 200 per cent, as confirmed in those shadow ministry decisions and confirmed in all the information we have gathered. So, Prime Minister—(*Time expired*)

Opposition members interjecting—

The SPEAKER—Order! Members know that is not acceptable. Is the amendment seconded?

Ms Gillard—I second the amendment and reserve my right to speak.

Mr COSTELLO (Higgins—Treasurer) (2.46 p.m.)—What has essentially happened here is that the Leader of the Opposition, through inexperience or through lack of consultation, has made the strategic error of committing a future Labor government, if one should be elected, to bringing troops home from Iraq by Christmas. What is more, he has actually entered that as an election pledge. As I said to the House yesterday, in the original interview with Mike Carlton he said a vote for Labor in September would have the troops home by Christmas. He has taken that decision without any proper consultation—without consultation with the Defence Force; without consultation with Foreign Affairs; without consultation with those that actually know the work that the Australian troops are performing in Iraq.

Rather than admit, when he was pinged on this issue, that he had not engaged in consultation, he has engaged now in an elaborate attempt to try and manipulate the facts to make it look as though meetings that were undertaken for the purpose of briefing him about security arrangements once he came to the office of the Leader of the Opposition were in fact briefings about the nature of the situation in Iraq and the nature of the strategic issues which were at stake. This is why his explanation keeps on developing and keeps on moving. It involves him now in having this House try and accept that his word should be preferred over that of the Acting Secretary of the Department of Foreign Affairs and Trade; that his word should be preferred over that of the Director of ASIS; that his word should be preferred over that of the deputy secretary of Defence who was engaged in this; and, indeed, that his word should be preferred over his own statements in relation to this matter earlier on.

This has started from a policy error which has now turned into an issue of character. It

is an issue of character as to whether, confronted with an error, the Leader of the Opposition will stand up and acknowledge it or whether, confronted with an error, the Leader of the Opposition will seek to put up smoke, to hedge his position and ultimately to mislead this House, which he has now done on three occasions. Let us go back to where this started. When the Leader of the Opposition became the Leader of the Opposition on 3 December 2003, he was asked this question: ‘Would you pull out the troops we still have in Iraq?’ He said:

... I have got to get briefings from Foreign Affairs and ... Defence ... I can't fly in with a top of the head assessment, I have got to base my judgements on fact. I am just ... 24 hours in the job ... it's been a busy day and I have obviously got to get those ... briefings before I can make any sort of considered judgement ...

That was a fair answer. That was an honest answer. The answer that he gave then was that he was going to get briefings rather than go with a top of the head assessment. Essentially, what we say is this: he never got those briefings. He went with a top of the head assessment, and when he was found out he sought to turn security briefings, in his capacity as the Leader of the Opposition, into defence arrangements—into those assessments which he promised to get but never in fact sought. He would have you believe today that when he gave the answer back on 3 December 2003—‘I can't fly in with a top of the head assessment, I have got to base my judgements on fact’—the decision had in fact already been made. If the decision had been made in March in the shadow cabinet, if it had been made in the caucus, why didn't he stand up then on 3 December 2003 and say, ‘Oh, it's already made. The decision's already been made. I don't need any assessments. Here it is. It's been through the shadow ministry. It's been through the caucus.’ Because we all know that what he was

being asked about in December 2003 was the postwar situation and the reconstruction situation. All of the resolutions that he read out back in March 2003 were Labor saying, 'We don't want the troops to go; we want them to be brought back.' That was before the war had begun in March 2003.

Of course, back in March 2003, if you did not want the troops to go, you would be in favour of pulling them back. But after the war we entered into an entirely different situation: Saddam had been deposed and it was now a question of reconstruction—it was not a question as to whether Australian troops would be engaging in war but whether they would be engaged in building the peace. That became an entirely separate question, on which the member for Griffith took an entirely different position—a position not that we should be winding back but that we should be gearing up. And that was the position that the Labor Party had. And so in December 2003 when we confront this issue—the issue of what role Australia will play in reconstruction—the member for Werriwa, the Leader of the Opposition, does not say, 'Oh, that's all been determined. That was all determined in the shadow cabinet. That was determined in the party room.' No, he says, as a sensible person would:

I can't fly in with a top of the head assessment, I have got to base my judgements on fact. I am just ... 24 hours in the job and it's been a busy day and I have obviously got to get those ... briefings before I can make any sort of considered judgement ...

We essentially say this: he never made a considered judgment. He never got the briefings and he never made a considered judgment. When did he make his judgment? He made his judgment when Mike Carlton suggested to him that he bring the troops home by Christmas. That is when he made his judgment: when he was in a radio interview. A man who would be Prime Minister, gets his

advice on when Australian troops should be deemed to have finished postwar reconstruction in Iraq in a radio interview from a radio commentator. And we say such a man never made a considered judgment—such a man did not do the work that is required to be entrusted with the national security of this country and, what is more, when he was confronted with that, he showed a failure of character in failing to acknowledge that.

He then is taunted in this parliament by the Minister for Foreign Affairs, who refers to this thing back in December. The Minister for Foreign Affairs asks on a number of occasions, 'Why is it that you have not sought these briefings? Why is it that you have not made a considered judgment?' And rather than come forward and say, 'I was too busy,' or come forward and say, 'You know, I was reading books to kids at night,' or whatever it was, what does he do? He does not acknowledge the truth. He maintains in this House on more than one occasion that such briefings took place. This is what he said on Tuesday, 30 March 2004:

I can assure the House that I have had two such meetings with intelligence officers from these departments and have had—

listen for it—

lengthy discussions about Iraq ...

The funny thing is that in his explanation he never told us how lengthy those discussions were. He never said, for example, 'We discussed the situation at Baghdad international airport. We discussed the 53 troops that were training the new Iraqi army.' He never said, 'We discussed HMAS *Melbourne* and the task it was doing in the Gulf.' He never discussed the troop commitment which was defending the Australian regional office. He never discussed when there would be rotations. He never discussed what the situation would be with our coalition partners. He never discussed the holes that we were filling

and whether they could be filled by somebody else. Do you know why? Because he never had a lengthy discussion. He never had that lengthy discussion; it never happened.

So by this stage there is a great deal of interest starting to emerge in the character question. Since he said to this House that he had had lengthy discussions about Iraq with the Department of Foreign Affairs and Trade—the briefings which he was offered—the natural thing was to ask the Department of Foreign Affairs and Trade when these lengthy discussions had occurred. So Mr Murray McLean, the acting secretary, was asked. And what was Mr Murray McLean's answer about these so-called discussions? His letter of 30 March 2004 said:

This is to confirm that the Department of Foreign Affairs and Trade has no record of having provided a briefing on Iraq to the Leader of the Opposition ...

Well that makes a nonsense of the statement to this House that he had a lengthy discussion and a briefing from the department. By this stage, he has dug himself in further. I fully expected that he would come out and say, 'Well look, I didn't need the briefing,' or 'Somebody on my behalf had the briefing.' But what actually happened, I believe, is he went back through his diary—'Let's find any meeting we've had with anybody in Defence or Foreign Affairs and let's see if we can try and type in the word-search 'Iraq' and let's see if a transcript comes up.' It was not a question of determining to come in here and disclose; it was a question now of doing his best to scurry around and cover up.

That is why this extensive briefing on Iraq, which had not been sought, this top of the head decision which had been taken without advice, suddenly becomes a meeting on 11 February with ASIS and a meeting on 5 January with Defence. So, as any reasonable person would, one goes back and one

says, 'What actually happened in that meeting of 11 February?' This was the lengthy discussion on defence. Mr David Irvine is the Director-General of the Australian Secret Intelligence Service. He says this about what was going on on 11 February 2004:

In accordance with section 19 of the Intelligence Services Act, on 11 February 2004 I briefed the Leader of the Opposition about ASIS.

Now I can inform the House that when somebody becomes the leader of a political party in Australia or becomes a minister of the Crown and is given that secret security clearance—or if one is on the National Security Committee—the first thing that happens is that the agencies come around to brief you fully on what the agencies do, what their method of accountability is and how they relate to each other. And this was the briefing that was going on to the Leader of the Opposition. This was not a briefing that he had sought on Iraq; this was a section 19 briefing about the role of ASIS. He had gone back through his diary—'When did I speak to anybody in the intelligence community? Oh, I had my briefing on ASIS. That will do; that will be my Iraq briefing, and that is what he informed this House. Unfortunately, that was untrue, and Mr David Irvine actually said that. He said that he had provided him with a basic background briefing on ASIS. He outlined the scope of its operation and amendments to the Intelligence Services Act. This was not a briefing on Iraq and what Australian soldiers were doing and whether they could come out by Christmas. That is an invention of the Leader of the Opposition to cover up a character failure because he could not be honest with this House.

The second briefing occurred on 5 February 2004. Again, this was not a briefing in relation to Iraq, not a consideration of the Australian commitment, not a talk about our coalition commitments or what Australia could accomplish; it was a briefing on the

intelligence services and the operations of the Defence Signals Directorate. And that is what Ron Bonighton has also written: this was not a discussion about Iraq; this was put in place to brief the Leader of the Opposition—not on Iraq, not on the Australian troop contribution but on the operations of the Defence Signals Directorate. Ron Bonighton goes on to say:

There was no discussion of policy or strategic matters relating to the deployment of ADF forces in Iraq.

He gave some examples of the way in which intelligence works, and he says:

... that included some examples relating to Iraq. There was a brief exchange on WMD, but no substantive discussion [of the subject].

That is the lengthy discussion that the Leader of the Opposition had with Australia's Department of Defence and Department of Foreign Affairs and Trade in relation to the matters in Iraq.

He compounds that again by coming back into this House this morning not to say that he has misled the House, not to say that there were no such lengthy discussions, not to say that he had never taken up these briefings, not to say that his position was ill-informed in relation to the ADF, but to accuse the Prime Minister of misleading the House. On the proposition that offence is the best part of defence, he actually comes into this House, having misled this House on all of those occasions, having never secured that briefing, and accuses the Prime Minister of misleading this House. This Leader of the Opposition made a policy error, but he has now made a personal error. He made a failure of policy and he has now exposed a failure of character.

I want to remind this House of what he said to this House earlier this week, when he actually decided to make a big point in relation to the Minister for Education, Science

and Training. Do you recall that—an illustrative case? Have we heard about an illustrative case today? He came in here and he tried to move a motion of censure in relation to the minister for education. He finished up by saying this:

If you cannot tell the truth, Minister, you should go.

That is the standard that the Leader of the Opposition wants to set up in this House. If that is the standard, he should go because he has failed it.

DISTINGUISHED VISITORS

The SPEAKER (3.01 p.m.)—Before I recognise the next speaker on the motion, I believe the House would want me to interrupt the debate to inform all members that we have present in the gallery this afternoon members of a parliamentary delegation from Papua New Guinea. On behalf of the House I extend a very warm welcome to our near neighbours.

Honourable members—Hear, hear!

AUSTRALIAN DEFENCE FORCE: DEPLOYMENT

Ms GILLARD (Lalor—Manager of Opposition Business) (3.01 p.m.)—The last thing I ever expected the Treasurer to do in this House was put in issue the question of character—the man for whom weakness is a core character trait. We have spent a lot of this session talking about the crisis of masculinity. Well, talk about the crisis of masculinity on display! This is a man who believes he would be a better Prime Minister than the bloke who holds the chair, but he does not have the bottle to do anything about it. He comes in here and tries to lecture other people about character. How absurd. How absolutely laughable and absurd. If you want to concentrate on character, Treasurer, why don't you concentrate on courage? Why don't you concentrate on that—showing a bit of courage, doing what you believe and actu-

ally challenging this man if you believe you would be a better Prime Minister?

As easy as it is to take shots at the Treasurer—and I have been thinking about them as he has been speaking—it gets to a point where you really do not have it in you any more to make fun of the Treasurer because of the bad parliamentary session he has had. This parliamentary session started off a little bit like how it is ending, which is with the Labor Party acting as if it were the government and that side acting as if it were the opposition. Of course, it started off with the question of politicians' superannuation, where the Labor Party led and the government followed. Now, today, on display what do we have? We have a government pretending to be the opposition. You will get a lot of opportunity in opposition to move these kinds of motions. We will probably be able to give you a few lessons on it because we know how it is done.

The SPEAKER—Order! The member for Lalor will address her remarks through the chair.

Ms GILLARD—I am talking about the nature of this motion. Sorry, Mr Speaker, I will address my remarks through the chair. Here we are, having gone full circle, and once again the government are pretending they are the opposition and having to move the sorts of motions that an opposition would move. Today, of all days, is it any wonder that this motion has been moved? This is a government that did not want question time and did not want the matter of public importance to be on the key domestic policy agenda issue of work and family life—the Prime Minister's barbecue stopper. He knew that if he took 10 questions on his barbecue stopper of work and family life that, after today's \$2.2 billion announcement, Labor would have all the answers and the only thing the Prime Minister would be able to

say is that the barbecue has gone out. They have no answers on the question of work and family life.

Apart from our major announcement this morning, the only reason we are here now today is because of the complete procedural fiasco the government managed to engage in yesterday. This is the ultimate act of catch-up for a government that thought they had set a good strategy on national security to get the issue that they like playing politics with the most back in the frame, on the agenda and in the media—that is what they wanted to do yesterday—and there they were, with the Leader of the House's cunning little plan to have this House debate national security yesterday and it turned into a complete fiasco, as we well know. What the government were trying to do yesterday was position the opposition to make it look as if we do not support our troops in Iraq, that we do not admire their courage and professionalism, when of course we do.

The Leader of the House wanted the opposition to vote against the Prime Minister's motion—the first part of it in that regard—and he engaged in a stupid strategy to try and achieve it. Even the Prime Minister, the man who has given the Leader of the House these responsibilities, realised how stupid a strategy it was, and the whole thing backfired. That is why we are where we are today, with this stunt being pulled by the government to make sure we do not have question time; this stunt to prevent the opposition asking questions on work and family life. They are hoping that it goes better than yesterday's stunt—because didn't yesterday's stunt go badly? It was the only time in living memory that a Prime Minister has raced into the House to call off a division ordered by the Leader of the House, humiliating the Leader of the House in front of the House of Representatives, because the Leader of the House had completely stuffed up the strategy. This,

of course, is trying to emerge from that fiasco and see if they can get national security back on the agenda today.

It is not only because of yesterday's fiasco with national security that we are here; we are here obviously because of yesterday's fiasco with the statement that the Prime Minister made in question time about briefings received by the Leader of the Opposition and the fact that he has been collapsing back ever since. The original statement made by the Prime Minister was that the Leader of the Opposition had not received briefings. Then, of course, by mid-afternoon he was conceding that yes, he has had briefings, but then he wanted to dispute the length and the quality of them.

Let me just say one thing about this motion and about the way in which the debate is proceeding. Actually only one person in this parliament was attending those briefings, and that was the Leader of the Opposition. The Prime Minister was not there; the Treasurer—

Mr Anderson interjecting—

Ms GILLARD—I am coming to that in a minute, thank you, Deputy Prime Minister. The Leader of the Opposition was of course there, the Prime Minister was not there, the Treasurer was not there and no-one else who will speak in this debate from the government side was there—not one of them was there. So their version is going to be put on the basis of letters that they have got from various public servants and agencies overnight.

We know a little bit about the way in which this government gets letters when it is in trouble, don't we? We certainly know a bit about the way this government gets letters when it is in trouble, and we know that from all of the publicity and all of the proceedings in this House last week. What happens when this government has a national security issue

that it wants to play politics with? What does it do? We know exactly what it does. The Prime Minister rings up one of his staff—whether it be the chief of staff or one of the staff in the advisers' box—and he says to them: 'Go and get X to write Y, and why don't you draft it for them. And, apart from drafting it for them, why don't you let me have a look at the draft.' That is the way it works, isn't it? We know that that is the way it works because that is the way it worked with the Australian Federal Police Commissioner.

Fran Bailey interjecting—

The SPEAKER—I warn the member for McEwen!

Ms GILLARD—So I have a few questions about these letters that have been produced today that I think the next speaker on the government side should address. If it is you, Deputy Prime Minister, with your newfound interest in Defence, you will be just the man to answer them. Why don't you—

The SPEAKER—Order!

Ms GILLARD—Sorry, why doesn't the Deputy Prime Minister, when he speaks, answer the following questions. If you say—

The SPEAKER—He says.

Ms GILLARD—that the letters you have are the complete version—the version on which you are going to rely—of a meeting that you were not at, then answer the following questions: how did the government come into possession of these letters? Who was it who rang and sought to have these letters? Was it a member of the government itself or was it a member of the government's staff? Was it the same member of staff—the chief of staff—who put pressure on the Australian Federal Police Commissioner to produce a clarifying statement which caused a good man to contemplate his resignation over

days? Was it the same member of staff or a different member of staff?

Of course we know that yesterday in question time there was grand excitement in the advisers box—so I think we actually got to physically witness the start of the process. We actually got to see one of the advisers on the phone, talking so loudly that we could hear half of what was said. Was that the start of the process of getting these letters? How did these letters come into existence? Who asked for them? Who wrote them? At whose insistence were they written? How do we know, given the track record of the last fortnight and everything that happened with the Australian Federal Police Commissioner, that these are not completely self-serving, untrue versions that the government has sought to procure to assist with its political agenda?

The one thing that we know about this government with some certainty is that it loves playing politics with national security, and it has absolutely no respect for statutory office holders, the integrity of the Public Service, the independence of the Department of Defence or the independence of our defence forces. It has absolutely no respect for those things, because when it has suited its political agenda to monster a political solution out of any of those agencies it has done it, and done it hard. Ask the Australian Federal Police Commissioner. Ask the Chief of Air Force, Angus Houston, about ‘children overboard’—the only man who was prepared to come forward and tell the truth in the middle of a national scandal about the way that this Prime Minister and this government had monstered the defence forces in order to get out of them exactly the information the government sought in the middle of the election.

We know that this government’s track record, when it wants to play politics with national security, is that it will ring up anybody,

make any threat necessary, cover up anything that does not suit its agenda and use that information in the public domain in the way that suits it. No-one who is listening to this debate today should accept, because this Prime Minister has produced a document and has used that document to political effect, that the document is accurate or that there has not been political pressure in its production. The track record of this government stands completely to the contrary, from ‘children overboard’ on, from the Office of National Assessments during the Iraq issue in the lead-up to the Iraq war on, to the incident with Mick Keelty, the Australian Federal Police Commissioner—every step this government has ever taken in national security and in playing the politics of it has been about putting on pressure to lever out outcomes.

So let us hear from the Deputy Prime Minister when he speaks next. Let us hear from him about all of those issues and how these letters came to be procured and here today. That will be a very interesting tale indeed. Maybe the Deputy Prime Minister does not even know it, but that will be an interesting tale indeed.

Let us now move to the real political issue that the government is trying to argue here. The truth is that the government has a different position on Iraq. We know that, and the ultimate adjudicators of who has made the right decisions and who has made the wrong decisions on those questions will be the Australian people. Our case throughout the whole issue in relation to Iraq and beyond has simply been this: tell the truth about national security and let the Australian people decide. It is not that hard. Tell the truth about national security and let the Australian people decide. Before hostilities started in Iraq, we were asking you—

The SPEAKER—Order! The member for Lalor!

Ms GILLARD—to be truthful with the Australian people about the nature of the deployment, about the reasons for the deployment and about why we were going to war. And that, of course, was a benchmark that was too high for this government. It could not possibly clear that hurdle—of actually telling the truth about why we went to war. Since the war, we have asked this government to be forthright with the Australian people about the intelligence assessments it had, about the decisions it made and about what it knew at the time, because the Australian people have got a right to know about national security questions. We have never had the slightest cooperation from this government; it has never been forthright and truthful with the Australian people on those issues.

Against that backdrop, this government comes in here and tries to play the tiniest political game about who said what to who in briefings that government members were not at. It is just amazing to me that we are talking about issues about war, about our troop deployment, about Australians still serving overseas and about an exit strategy from a conflict that people have been involved in and Australians are still serving overseas in, but we cannot talk about those issues and let the Australian people decide those issues on their merits. We have got to play these little political games, and that is all this is, Prime Minister. You know that that is all this is.

The SPEAKER—Order! The member for Lalor.

Ms GILLARD—It is a little political game. It is a stunt. Like yesterday's stunt, it is going to backfire because the Australian people, as the Leader of the Opposition said, are bigger people than you. They understand about this nation and its national security,

and they will decide on the substance, not on your cheap tricks.

The SPEAKER—Order! I remind members that remarks will be addressed through the chair.

Opposition members interjecting—

The SPEAKER—If it would suit members on my left to ensure that some of them do not vote, I will accommodate them. They will also not be representing their constituents in the process.

Mr ANDERSON (Gwydir—Deputy Prime Minister) (3.17 p.m.)—In almost 15 years in this place, I have never heard a weaker or more illustrative defence of a leader by a member of a political team.

Mr Gavan O'Connor interjecting—

The SPEAKER—I warn the member for Corio!

Mr ANDERSON—To spend the first third of the defence of your leader's so-called position in a ridiculously weak and misdirected personal attack on the Treasurer as a smokescreen for an obvious inability to defend the Leader of the Opposition in a sense says it all. It is almost open and shut. The second third of the speech then saw an outrageous attack on professional officials of very high standing in this place that I think immediately invites comparison with the way in which the Labor Party behaved over Mr Keelty. He was a hero beyond all reproach until they were reminded of Mr Keelty's sufferings at the hands of Senators Ray and Faulkner—when it suited them to attack him. Today it suited them to launch a completely unfair and completely unconvincing attack—it is perhaps more important that it was unfair—on the integrity and the reliability of those who have commented on what really happened in relation to the claimed briefings. I ask a question I suppose rhetorically: does anyone believe that Ron

Bonighton would be subjected to pressure from us?

Ms Gillard—Yes.

Mr Snowdon interjecting—

The SPEAKER—I warn the member for Lingiari!

Mr ANDERSON—You actually believe that? I have to say that I think that is a terrible reflection on you, not on him. It really is. I pose another question, and it will be interesting to see the response: does anyone believe that the Secretary of the Department of Defence, Mr Ric Smith, would behave in such a way as to allow himself to be pushed around by us? If he would, then it is interesting to contemplate what he wrote:

I am advised that neither the Chief of the Defence Force, the Vice Chief of the Defence Force, the Chief of Navy, the Chief of Army, the Chief of Air Force—

whom you have just described as a totally honest man—

the Deputy Secretary Intelligence and Security, the Deputy Secretary Strategy nor the heads of strategic operations or international policy divisions have provided any briefing to Mr Latham on the subject of Iraq.

Do you think those people—

The SPEAKER—The Deputy Prime Minister will address his remarks through the chair.

Mr ANDERSON—would allow themselves to be used in such a way as well? The proposition is absolutely absurd. But by the time you got that far through this remarkable speech, you were left with just two or three minutes. I was waiting for the defence of the Leader of the Opposition. Did it come? No, it did not. It did not come even then.

The Treasurer was right when he said that this has become a test of character. Character in leadership is very important. There is no doubt about that. The Leader of the Opposi-

tion has committed himself to a reckless policy in a reckless way. This is a test of leadership capacity and of the suitability of character for leadership. There is no doubt about that. Prudence and judgment are needed in a leader. They are not the only qualities needed, but in terms of this debate they are the pertinent qualities we are looking for. I would concede that boldness is important in leadership, but I tell you what: while boldness is needed in leadership, even in boldness the real leader avoids recklessness.

What we are seeing here is real recklessness. We are seeing a pattern of recklessness. The first point that comes to mind, frankly, is that it is almost impossible to ignore the fact that it is just like what we saw from the political or spiritual father of the Leader of the Opposition, Gough Whitlam. I am indebted to the *Age* for running a story on 1 January with the headline ‘Labor’s impetuous blitzkrieg duo’. We would do well to remember—those of us who lived through that—what it was like to have somebody trying to lead the country who displayed a remarkable lack of willingness to consult, to talk to officials, to make certain that the bureaucrats and departments were being involved in decision making. That is what we saw then. The *Age* article said:

Even today, veteran politicians, commentators and many others marvel at the industry with which Gough Whitlam set about making up for 23 years in the political wilderness.

... ..

Together they ran the nation by press release for a fortnight, making some 40 important decisions.

Bringing the troops home was not actually one of them. There were only 128 left in Vietnam at that stage. That had been done by the previous government. I do not know whether Gough reminded you of that when you rang him up and said: ‘What should I do to capture some public imagination? Where

can I find some troops to bring home?' That was not one of them. But we did see Whitlam and Barnard making a lot of joint decisions and then issuing one- or two-page statements. What was obvious, the article makes it plain, was that there were clearly no protracted consultations with public servants and no detailed submissions as a basis for their decisions. We ought not to forget that. It is important. It is, if you like, a road map—not a 'coast guide' but a road map or a guide to the way in which the son of Whitlam likes to carry forward ad hockery and, I would argue, recklessness in policy formation.

We have also, of course, seen that same recklessness in the constant shifting, turning and twisting in policy since he became the leader of the Labor Party some four months ago. Central to his position, of course, has always been that he is committed to the values of the Labor Party. He has a supposed commitment to the things he always believed in and a supposed commitment to be straight with the people of Australia. That is an issue of character—being straight with the people of Australia. The first thing he said when he became leader was that he would no longer be accountable for the things he did before he became leader—at least, he would no longer be accountable for some of the things that he had said and done before he became leader. He was no longer the man who had assaulted a cab driver. He was no longer the man who swore and used bad language. He was no longer the man who had insulted and denigrated the President of the US. He was in fact a new style of leader—not like himself in a former life and not like his political mentor, I presume we are meant to believe. The real fact, though, that has emerged is that he is a leader who seeks to pick and choose the parts of his history and character that he wants the people to see. He is a leader who will pick and choose what he is accountable for and the policies and principles

that he will adhere to. But in political leadership you cannot pick and choose. You are the sum total of where you have been and what you are. You cannot expunge your public record as easily as you can remove material—airbrush it—out of an Internet site.

We also see a recklessness in this one-man-band approach to policy formation. It is really perfectly apparent that there has not been adequate consultation with the shadow cabinet on this. It is as obvious as the nose on your face. The one thing you can say about the member for Griffith is that he is not often floundering or lost for words, but on this he has been. He has had so many positions that it has been impossible to follow. It is also perfectly obvious that, in relation to those motions from shadow cabinet and so forth about withdrawing the troops, that was before the troops were engaged in anything. It is quite obvious—17 March was before hostilities began. It is a very important point.

Mr McMullan—That's not true!

The SPEAKER—The member for Fraser is a persistent interjector. I would have believed that he wanted to vote.

Mr ANDERSON—It was before anyone could have known how things were going to unfold. It was before we found ourselves in the situation—and the rest of the world is with us—where we have a difficult situation that needs to be settled down in the interests of the Iraqis, their neighbours and the rest of the world.

But nowhere has this recklessness been more apparent and frankly more dangerous than in the clear failure of the Leader of the Opposition to get himself properly briefed and properly up to speed on matters which affect the future and the future safety of the Iraqis, and we ought not to forget them; of our troops and our non-military personnel in Iraq, and we should not forget them; and of ourselves and our children here in this coun-

try. They say that there is nothing more difficult, dangerous or challenging than for a leader to commit their military to war. The Prime Minister knows that pressure only too well, as does the government. Nothing after that can be more sensitive than managing a withdrawal. Nothing can be more sensitive than ensuring the safety of your troops during a withdrawal. I would have thought that, in those circumstances, at the very least you would want to consult pretty widely with the experts in this area. We heard quite a bit about listening to Mr Keelty when he was top of the pops, before they were reminded of their personal attacks on him in the Senate not so long ago, and about how important it would be for us to seek out his advice in his areas of expertise and responsibility. Why did the Leader of the Opposition not apply the same test to the leader of the military?

If you are talking about withdrawing the troops—our fighting men and women—from their sphere of activity in Iraq, why would you not, before you (a) made that decision and (b) said anything about it publicly, go to the person most responsible not only for our defence but also for their wellbeing? Why would you not go to the Chief of the Defence Force? In fact, why would you not be charged with dereliction of your duty to the safety of Australians and the people who are expected to look after them when you would not go to him first and foremost and say: ‘How should we handle this? It is our belief’—if it is your belief—‘that we should not stay there a moment longer than necessary, but we want to know what is in the interests of the safety and security of the Australians in Iraq. We want to know how best to look after those people who are rebuilding that nation, its democracy and its future and who are rebuilding the commercial and cultural ties between our two countries. We actually want to know’—and this is the leader of the group that claim to be the great inter-

nationalists in Australia and have done since the Second World War—‘how to play a responsible role internationally. It is not only that that we would like your views on; we would like to know how we go about ensuring the safety of our troops when we have made a decision on the withdrawal of those troops back to home.’

The other question he might have asked is very obvious and it is the first question I would ask: ‘How do we best secure the safety of Australians? How many people do we have here? There are about 52-odd thousand in the military—how many do we have over there and how does the balance actually work out?’ I think the glibbest of all glib lines was this one: ‘We need our troops back here’—this was given as a rationale—‘to look after us.’ What are the immediate threats? Did he check that out with the various people he consulted with, including the Chief of the Defence Force? Did he go to them and say, ‘What threats does Australia face and where are they going to come from?’ ‘Justify my position, if you like,’ he could have said; ‘I want to bring them home, so give me the arguments that might make me out a convincing case that the security interests of Australians are best served by bringing the troops home.’

Did he ask the CDF that? No. How do we know? Unless you are actually going to say—and I suppose that you might, on the basis of that utterly pathetic and totally unconvincing speech from the member for Lalor—that Ric Smith, the Secretary of the Department of Defence, is wrong and imply that somehow perhaps you did consult with the CDF, you are going to have to say, ‘No, we didn’t ask any of those questions.’ I regard that as a dereliction of duty by a potential leader of this nation, and a serious one. Quite frankly, I think it is one for which you ought to be prepared to apologise to the serving men and women, whom we ask to make

potentially enormous—even ultimate—sacrifices on our behalf.

This, I am afraid, has really been a pretty sorry saga. We saw the Leader of the Opposition coming in here this morning and demanding an apology and a withdrawal from the Prime Minister and saying in relation to that meeting which took place on 5 February in his office in Ingleburn:

Mr Bonighton briefed me on several subjects—one was the situation in Iraq. We had lengthy discussions that dealt with a range of security and intelligence matters in Iraq and the failure to find weapons of mass destruction.

Those words are pretty damn simple! They really are! But here is the man who gave the briefing—

Ms Gillard interjecting—

Mr ANDERSON—The other person who was there—remember that? The member for Lalor said there was only one person there. There was not; there were two people there—one who gave the briefing and one who, of course, by the very definition of his professionalism would be careful about making certain he could remember what he briefed on. What did he say? He said:

There was no discussion of policy or strategic matters relating to the deployment of ADF forces in Iraq.

... ..

There is no mention of Iraq in my record of the topics covered in the briefing because it was not in any way central to the substance of the brief. It arose only in an illustrative context.

A very illustrative letter indeed! I say to the Leader of the Opposition that I really do believe that, when you have called it wrong like this, you do the statesmanlike thing and retreat and at the same time you go and make certain that the defence forces of this country know that you will not put them in danger in this way again.

The SPEAKER—Before I recognise the member for Hotham, I will say that I have deliberately chosen not to interrupt the Deputy Prime Minister and nor did I interrupt the Manager of Opposition Business. But all members know they have an obligation to address their remarks through the chair—to talk to the chair and not to directly address their remarks to the Leader of the Opposition, the Prime Minister or a minister or shadow minister as the case may be.

Mr CREAN (Hotham) (3.32 p.m.)—You can always tell the death rattle of a government that is in trouble, coming in here and moving motions against the opposition—

Government members interjecting—

Mr Sidebottom—It's a false laugh!

The SPEAKER—I have recognised the member for Hotham. I will deal instantly with anyone who interrupts him.

Mr CREAN—It is not just the death rattle but the false laughter. Just have a look at the faces on those members sitting back there as this government struggles desperately to avoid discussing the issues of the day that matter to ordinary Australians.

The Leader of the Opposition was out there today announcing a baby care payment for all births in Australia in the future and this government chooses to come in here and, of all things, talk about truth and disclosure of the truth. This is from a Prime Minister who is incapable of telling the truth. This is from a Prime Minister who told the electorate there would 'never, ever' be a GST.

Mr Nairn interjecting—

The SPEAKER—The member for Eden-Monaro is warned!

Mr CREAN—This is from a Prime Minister who before the last election said that kids were thrown overboard when there was no evidence of the fact and he knew it and never owned up to it. He never corrected the

record. Not only has he not told the truth; he has never had the decency to admit it.

This is from a Prime Minister who committed our brave young men and women to a war on a false premise. The premise was that they were going in there to rid Saddam Hussein of weapons of mass destruction, when they had no substantive intelligence to suggest that those weapons existed. Now, after the event and after they send them in on that false premise, they try to justify the continuing presence of troops there on another premise. This is a government not only incapable of telling the truth but also prepared to use the intelligence agencies and law enforcement agencies to its own base political advantage.

Listening to the Deputy Prime Minister before, you would think that he was still debating the issue as to whether we should have taken the troops out of Vietnam. That is how far back he was in the past—railing against Gough Whitlam and his call to get the troops out. The reality is that if people are sent to war on a false premise they should be returned home as soon as possible. What Labor have consistently said in relation to this war is that we as a government would return the troops immediately. We have not just said it once, twice, three times or four times—we have consistently said it. We said it as far back as when we were getting ourselves implicated in this war by the government that sits opposite.

The fact of the matter is that the first limb of this motion asserts that there was no shadow ministry decision by the Labor Party that said that we should withdraw the troops immediately. That is wrong. There was not only a decision of the shadow ministry; there were numerous decisions of the shadow ministry.

Mr Abbott—Why didn't anyone else know about it?

Mr CREAN—You say no-one knew about it. How come Matt Price wrote about it on Wednesday, 19 March last year? You fool! You are nothing but a fool. I know that you love reading the *Australian*. I know that you love feeding them at the *Australian*. Why don't you actually read it? On 19 March 2003, Matt Price reported:

Caucus sat for two hours. Crean emerged at 11.30 am with a resolution to oppose the war and call for the withdrawal of troops.

That is a resolution of the caucus.

Mr Abbott—Before the war started.

Mr CREAN—That was the caucus meeting before the war started. It reflected a shadow ministry decision taken on the previous day, 17 March. It was a decision of the shadow ministry which was repeated and reaffirmed on 24 March—after the war had started, you fool!

I do not know where you guys get off. You make these assertions—you do not do any research into them; you just make them—and think that, by dint of you being the government of the day and having spin doctors aplenty, the Australian people are mug enough to fall for them. I tell you what: they have had enough of your deceit, enough of your untruths. They woke up to you a long time ago, and they are just waiting for the opportunity to rid themselves of you sitting on that side of the House. Not just 17 March, not just the caucus meeting of 18 March, but the shadow ministry on 24 March and the shadow ministry again on 12 May—do not tell me that we have not taken this position from the beginning. The record, so far as we are concerned, proves it, and there were plenty of reports in the newspapers around that time that confirm that.

So the first limb of this motion that comes before the House is completely false. It is about time that this government did some work, did some basic research, and, instead

of continuing to assert untruths, actually told the truth to this country. It is not good enough to just assert the truth. Whenever they want evidence to back it up they will stop at nothing to get the outcome from any government official or any agency person to ensure that their claim is backed. We all know the disgraceful way in which they went after Mick Keelty, the commissioner of the Federal Police. What was his sin? His sin was to tell the truth, but in a way that directly contradicted what the government was asserting. Mick Keelty said nothing more than everyone else believes, and that is that involving ourselves in the war in Iraq has made us a greater target for terrorists, a greater target of terrorism.

If anyone needed reminding of that, the context in which this all occurred was the Madrid bombings—an attack on one of the other members of the coalition of the willing. It is true that we need to establish the circumstances associated with that terrorist attack and wait for the advice to come to us. All Mick Keelty was doing was expressing his considered judgment. Mick Keelty is the man that the government praised for the intelligence gathering, law enforcement and cooperation in Bali. He used the same assessments to determine whether we in Australia were a greater or lesser target as a result of our involvement in Iraq, and he said he thought we were a greater target. It is not just Mick Keelty who believes it; the vast majority of Australians believe it. But the government could not tolerate that. They had to get on the phone within minutes of that revelation being made by the commissioner. Arthur Sinodinos was on the phone—as someone sitting in the advisory box is now getting on the phone. I wonder who they are calling next to write the next little statement that is going to justify their claims. This is a government that operate by phone—by phone and by intimidation.

Mr Murphy interjecting—

The DEPUTY SPEAKER (Hon. I.R. Causley)—The member for Lowe is warned!

Mr CREAN—Not only do they do that; they put our law enforcement agency, the Australian Federal Police, at risk in the middle of us having to deal with the renewed threat of terrorism—the greater threat of terrorism post Madrid. What is the end result of the government phoning Mick Keelty? It forced him to consider his resignation.

From all accounts, he was so shattered by the way in which he had been so shabbily treated by this government for telling the truth—but a truth that did not coincide with the government's view of life—that he was seriously considering his resignation until, of course, a written accommodation was reached between the government and him. I hope that Mick Keelty stays; he is a good man, but he deserves better handling by this government. They have abused their relationship with him and they have put at risk the continued effective operation of the Australian Federal Police.

Mr Ross Cameron—Just ask Senator Faulkner!

The DEPUTY SPEAKER (Hon. I.R. Causley)—Order! I don't need any advice.

Mr CREAN— But that was just one example. What about the circumstances in which the government during the last election misused the Office of National Assessments? The Prime Minister went down to the Press Club in the last days of the campaign, when he was under serious threat in terms of his credibility, and he produced documentation from the ONA, which subsequently turned out to have been compiled only by newspaper reports—no internal gathering. But he asserted it and put it forward as the most considered bit of information. Why? To save his hide. He comes in here and lectures us about what should be divulged from secret

briefings. He tabled it at a press conference! He got the evidence that he thought suited his case and, because he was so desperate, he doled it out.

I have had many of these security briefings. I know the circumstances in which they are undertaken. They are for the purposes of informing the opposition, like the government, on issues that affect the nation's security so that we can be better informed about the detail but not divulge that detail, so that we can make our own judgments based on that detail and move forward. But we are not expected ever to divulge what was said, just to make judgments based on it. If you assert that you made judgments based on it, that should not be brought into question. If you do that, you are then undermining the very basis upon which these briefings are conducted. What do we find with this Prime Minister? Not only does this Prime Minister lecture us about nondisclosure of what goes on in briefings; he divulges them himself. He gets letters written from DSD, from the Department of Defence, which are designed to question the credibility of the Leader of the Opposition. But, by doing that, he is undermining the very credibility, the very basis, upon which these briefings are disclosed. Of course you can produce a letter and selectively quote from it or get people to write certain aspects.

How can the Leader of the Opposition have a defence—a real defence—unless he breaches the very basis upon which he had that briefing, which is to maintain confidentiality in relation to it? I tell you this: I know this Prime Minister, and I know he is incapable of telling the truth. But when the Leader of the Opposition tells me he has had the briefing and he has informed his decision about the putting of a time line, which is all that changed in terms of his statement last week—not that he had adopted new policy on the run; that policy had been determined

more than 12 months ago—based on intelligence that he had got, of course he is entitled to be taken at his word, not to have it questioned. And certainly not this grubby approach where you come in, you mug people into getting letters written—

Mr Brough—We have provided facts!

Mr CREAN—You have not provided the facts. Indeed, let us go through it. At the very beginning of this, it was the foreign minister, Alexander Downer, who repeatedly said Mark Latham had never been briefed at all.

Honourable members interjecting—

Mr CREAN—It is acknowledged by them. That is just patently false, because the Leader of the Opposition has been briefed not only once but twice, and that has been confirmed in the correspondence that has been tabled. The Prime Minister then quoted a letter saying that there was no brief from DFAT. But in fact the Leader of the Opposition said in a personal explanation that he had been briefed by them on Iraq.

Then we have this spectre today where, in an attempt to produce new evidence, two letters are produced—one from Mr Bonington, who did the briefing with the Leader of the Opposition, and one from the secretary of Defence, Mr Ric Smith. What do both of those letters say? Both of them confirm not only that a briefing took place but also that Iraq and weapons of mass destruction were discussed. That is what they say. The very evidence that the Prime Minister tried to slate the Leader of the Opposition on proved the contrary. The second limb of the motion that is before us is also defeated. I noticed with a bit of amusement that in one of these Mr Bonington recalls a 'brief' exchange on the weapons of mass destruction. That is hardly surprising—there aren't any! It would not take too long to talk about them in a briefing, because there aren't any. If in fact

you then go on to talk about the intelligence associated with them— (*Time expired*)

Mr ABBOTT (Warringah—Leader of the House) (3.47 p.m.)—The interesting thing about the debate so far is that no-one has actually tried to defend the Leader of the Opposition, for the simple reason that his actions are indefensible. We have had any number of red herrings—we have had ‘children overboard’ and we have had the rights and wrongs of the original decision to go to war; we even had them launch their ATSIC policy yesterday, and we had them launch their family policy today—but none of these smokescreens or red herrings will work, because this is not about the war; this is about the behaviour of the Leader of the Opposition. This is not about the rights and wrongs of the original decision to go to war; it is about the truthfulness or untruthfulness of the Leader of the Opposition. It is not about the political character of this government; it is about the personal character of this Leader of the Opposition.

What is the contention of members opposite? The contention of members opposite is that the Leader of the Opposition says he has had lengthy briefings about Iraq and anyone who says otherwise is a liar. That is their contention: he has had lengthy briefings about Iraq, and anyone who says otherwise is a liar.

The DEPUTY SPEAKER (Hon. I.R. Causley)—I think the minister could use a better word than ‘liar’.

Mr ABBOTT—They are not accusing the Prime Minister of lying; they are accusing numerous senior public servants of this country of lying. They are accusing Mr Bonington of not telling the truth. They are accusing the Deputy Secretary of the Department of Defence of not telling the truth. They are accusing the Director-General of ASIS of not telling the truth. They are accusing the Secretary

of the Department of Defence of not telling the truth. And they say they support the integrity of the Public Service.

The DEPUTY SPEAKER—The Leader of the House will address his comments through the chair.

Mr ABBOTT—But in this parliament today they are accusing the serried ranks of the senior public servants of this country of telling untruths about the Leader of the Opposition. Not only that, they are saying that the senior public servants of this country are so weak that they would lie if a government told them to lie. This is a scandalous calumny on good public servants, and the Public Service of this country deserves an apology from every member of the opposition who has spoken in this debate.

What has happened? The Leader of the Opposition came and made a misguided policy on the run in an interview with Mike Carlton. First of all the debate we have had in this parliament over the last few days was about the misguided policy of the opposition, but now it is about the Leader of the Opposition’s propensity to be loose with the truth. He made a bad decision and he has now lied about it to protect himself.

The DEPUTY SPEAKER—The Leader of the House—

Mr ABBOTT—He has told untruths about it to protect his position.

The DEPUTY SPEAKER—The chair is sensitive to the word ‘lie’.

Mr ABBOTT—Indeed, we all should be, because misleading this parliament and misleading the Australian people is a very serious offence—an offence in which the Leader of the Opposition has been caught red-handed. Let us go back to the beginning of all this. The day after the Leader of the Opposition became leader, he gave an interview

to Neil Mitchell, when he was asked about withdrawing the troops. He said:

Well I have got to get briefings from Foreign Affairs and from the Defence department about the detail. I can't fly in with a top of the head assessment, I have got to base my judgements on fact. ... I have obviously got to get those sort of briefings before I can make any sort of considered judgement about what needs to be done.

Now the Leader of the Opposition is trying to have us believe that the decision was made back on 13 March. If it was made on 13 March, why did he tell fibs to Neil Mitchell and the Australian people on 3 December? The fact is that it was never made on 13 March. There was a prewar commitment to withdraw the troops, but the postwar commitment was that the troops should stay there to finish the job. That was Labor's postwar commitment. It was a commitment that has been reiterated time and time again by the member for Griffith—a far more honourable, intelligent and well-informed member of this House than the Leader of the Opposition.

The fact of the matter is that the Leader of the Opposition has been caught out. He has been caught out well and truly, telling untruths to protect his position. In a press conference on Tuesday, 30 March he said:

... I've had discussions with officials from Foreign Affairs and Defence about the situation in Iraq ...

He was asked again. He said:

... I've had discussions with officials from Foreign Affairs and Defence about the situation in Iraq ...

He made this claim not once but twice in his press conference. Then the Prime Minister was able to come into this parliament and provide information from the Deputy Secretary of the Department of Defence which said:

This is to confirm that the Department of Foreign Affairs and Trade has no record of having pro-

vided a briefing on Iraq to the Leader of the Opposition, Mr Mark Latham.

So, it is fibs. It is absolute fibs.

Ms Gillard—He clarified that.

Mr ABBOTT—All right. He then came in and told this parliament yesterday:

... I have had two such meetings with intelligence officers from these departments and have had lengthy discussions about Iraq—one meeting on 5 January and the other on 11 February.

Here we have evidence from David Irvine, the Director-General of ASIS saying, 'I had a meeting on 11 February. There was no substantive discussion on the role of the ADF in Iraq.' So the claim about 11 February is false. Then the Prime Minister was able to come into this House and table a letter from the Deputy Secretary of the Department of Defence, about the 5 January claim made by the Leader of the Opposition, which said:

There is no mention of Iraq in my record of the topics covered in the briefing because it was not in any way central to the substance of the brief. It arose only in an illustrative context.

What we have here are repeated claims by the Leader of the Opposition that he had lengthy briefings on Iraq, which are simply false. There has been no official briefing of the Leader of the Opposition by any senior official from any of these organisations. Did he go to General Cosgrove, the Chief of the Defence Force, and ask for a briefing? He did not. Did he go to the commander on the ground in Iraq and ask for a briefing? He did not. Did he go to the head of the Department of Foreign Affairs and Trade and seek a briefing? He did not. Did he go to the head of the Department of Defence and seek a briefing? He did not. The briefings that he did have were not about Iraq. The only briefings that the Leader of the Opposition has had about Iraq have been down at the Holy Grail, because he certainly has not had any

briefings about Iraq from the officials whom he claims he has had briefings from.

But this is not the only untruth. Having told untruth after untruth in the last few days, the Labor Party came into the parliament today to claim that the shadow cabinet decision on 13 March somehow was a commitment not to withdraw troops before the war but to withdraw troops after the war. I would like to remind members opposite that something happened between 13 March last year and 23 March this year when the Leader of the Opposition announced the policy of immediate withdrawal. It is called the war. The war intervened. That means that the claims that the Labor Party are making about shadow cabinet and caucus decisions taken back in March last year are false. They are as false as the claims that the Leader of the Opposition has made about extensive briefings on Iraq.

How could it have been Labor policy all along to have an immediate withdrawal from Iraq when on the second day of his leadership, when asked that very question, the Leader of the Opposition said:

I can't fly in with a top of the head assessment ...

Had he forgotten the shadow cabinet decision or was it a fact that there had never been any such shadow cabinet decision? Plainly, there had been no shadow cabinet decision. If the shadow cabinet really had decided about a postwar withdrawal, not a prewar withdrawal, why was it that on 27 March last year, after the war, the ALP would not support a motion in the Senate calling for the immediate withdrawal of troops? They supported a motion in the Senate only after the war, when it talked about a safe withdrawal of troops rather than an immediate withdrawal of troops, because it was not their postwar policy to have an immediate withdrawal of troops. As the member for Griffith has made clear time and time again, their

policy was not to withdraw troops after the war; their policy was to stay in and finish the job. It was an honourable policy. At least, that was their policy before the member for Griffith was hijacked by the Leader of the Opposition on the Mike Carlton program.

In the end this debate is about the fitness for office of the Leader of the Opposition. It is about the character of the Leader of the Opposition—someone who has proven that he will come into this parliament, go before the Australian people and tell untruth after untruth if it serves his purpose. He talked about ethical standards. Almost as soon as he became leader he said, 'I want a new ethical approach to politics.' He even said in the media not once but twice: 'I will not tell a lie.' What has he been doing for the last few days? I tell you this: he is no George Washington, this Leader of the Opposition.

When he came into parliament, he wanted to present himself as a breath of fresh air. But what he has revealed himself to be over the last few days is nothing but another Tammany-Hall politician. He is just another product of the New South Wales Right who is prepared to do whatever it takes to get what he wants, with all the arrogance, the deceit and the bombast which we have come to associate with the New South Wales Right. He is a political novice, and what has been revealed over the last few days is that he is a political novice with a nasty streak.

Ms Gillard interjecting—

The DEPUTY SPEAKER (Hon. I.R. Causley)—The member for Lalor has been given far too much lenience.

Mr ABBOTT—The Leader of the Opposition likes to talk about a ladder of opportunity. Plainly, what we have seen the Leader of the Opposition doing over the last few days is slipping down a ladder of opportunism. He constructed a ladder of opportunism, and he cannot stay on it anymore. I suggest

that the Leader of the Opposition ought to forget about his ladder of opportunity and start looking at a ladder of learning. Plainly, he needs to learn a very great deal if he is ever to be an effective Leader of the Opposition, let alone an effective leader of our country.

He should start climbing the rungs of the ladder of learning. The first rung is that he needs to control himself. He needs to avoid 'losing it' the way he has on numerous occasions over the last few days. The second rung on the ladder of learning is that he needs to be able to admit his mistakes. The real test of character, the real test of a man, the real test of a potential leader, is to be able to admit that he is wrong and to make amends accordingly. That is an important lesson that he needs to learn.

The third rung on the ladder of learning is that he needs to take his colleagues seriously, particularly colleagues like the member for Griffith who know a lot more about foreign policy, the intelligence community and nation building in places like Iraq than he does. The fourth rung on the ladder of learning which he needs to climb is to learn not to make policy on the run. The welfare and safety of our troops in Iraq are too important to be subject to policy made on the run on the Mike Carlton program. The alliances that this country has are too important to be subject to policy made on the run on the Mike Carlton program. The fifth rung on the ladder of learning that he needs to climb quickly is that he needs to drop his instinctive anti-Americanism. It is in the interests of this nation to strengthen and protect the American alliance, and it is high time that that was realised by the member for Werriwa.

The debates that we have had in the parliament over the last few days are about correcting bad policy. But they are not just about correcting bad policy; they are also

about highlighting bad character—the bad character and the bad faith which have been shown by the Leader of the Opposition over the last few days. If he does not correct the policy and if he does not correct the record, members opposite will be entitled to say most loudly what they are already saying about him: he is a human hand grenade. (*Time expired*)

Mr RUDD (Griffith) (4.03 p.m.)—This is a government with a track record when it comes to using and abusing national security. It is a government which did it in relation to *Tampa*, it is a government which did it in relation to 'children overboard', it is a government which did it most recently in relation to Melville Island and it is a government which has done it consistently on the entire question of Iraq. When it comes to Iraq, the question is not just weapons of mass destruction or the impact of our involvement in the Iraq war on the terrorist threat in this country. Now, most recently, there has been a whole debate about the timetable for the withdrawal of Australian troops from Iraq.

We seem to have arrived in some sort of George Orwell type universe in this parliament where somehow truth is the unique province of those opposite, when we have been subjected, for more than a year now, to a government that is comprehensively loose with the truth when it comes to the entire Iraq debate. The Australian people have been misled on the Iraq debate when it comes to Iraqi WMD and they have been misled by this government when it comes to the impact of our involvement in Iraq on the terrorism threat to Australia. Now the government is seeking to mislead the Australian people again on the whole question of the timetable for the withdrawal of Australian troops.

This is an entirely remarkable debate when you put it into the context of how this government has handled Iraq in this cham-

ber. I remind honourable members of the debate about prewar intelligence on Iraq. It was a scene-setting debate for the debate we are having now because it was a debate about truth. It was a debate about whether this government was telling the Australian people the truth, based on the intelligence information it had at the time. The great contribution that was made by the parliamentary joint committee on intelligence, chaired and dominated by the Liberals, was this: on 12 separate occasions that the committee documented, this government misled the Australian people about the nature of the prewar intelligence on the threat from Iraq.

We talk here often simply about the government's greatest exaggeration—namely, that Iraq possessed arsenals, stockpiles, of completed weapons of mass destruction, biological and chemical weapons. Yet, after the war, that became, mysteriously, 'weapons programs'. Before the war, there was a lot of doubt about that claim. But that was just one of 12 separate findings by a committee chaired by the member for Fadden—not a member of the Labor Party but a member of the government—and dominated by the government. When you match up what the government said with the intelligence information the government had at its disposal, what the government consistently did was mislead the Australian people about the nature of that threat.

The reason I emphasise that in this debate is that it is a key part of this government's pattern of behaviour. Remarkably, we have been talking today about character. The character of this government, endemically—almost biologically—is to mislead the Australian people. If you measure truth on the one side and the information they have at their disposal on the other side and look at what they then say to the Australian people, the chasm gets wider and wider.

I said that it is a pattern of behaviour. Look at volume 2 as far as Iraq is concerned—that is, the entire Keelty affair. We had the Australian Federal Police Commissioner putting on national television the simple commonsense proposition of the entire Australian people: that involvement in Iraq would have an impact on the terrorist threat to this country. What your government did was monster him. You monstered him for telling the truth.

He did not tell the truth in isolation, because all the other terrorism experts around the world agreed with him: Dr Clive Williams from the Australian National University; the world's leading authority on Al Qaeda, Dr Rohan Gunaratna, out of the Defence and Strategic Studies Centre in Singapore; and, on top of that, Dr Zachary Abuza, the world's leading expert on Jemaah Islamiyah—the people who murdered our people in Bali. All of these experts—all of them, including Keelty—said that involvement in Iraq impacted logically on the overall terrorism threat to this country. But when it comes to you mob handling the truth on this proposition you ran a million miles away and monstered those who actually told the truth. It is a deeply ingrained pattern of behaviour. This same pattern of behaviour is alive in this debate today.

Yesterday we had a debate in which we were faced with a motion from the government. During the context of that debate I was able to run through five or six separate occasions when not the opposition but the government—and not a government backbencher but no less than the foreign minister—had time and again stated that once we had discharged our responsibilities in Iraq we would be out of there, if not straightaway then very soon after. The foreign minister of Australia said that there should be no further military role and that our role should be limited to humanitarian and reconstruction tasks.

Did the Labor Party say that? No, it was the foreign minister; it was the government who said that. I would have thought that on matters of foreign policy and in relation to what is going on in Iraq before and after the war he is supposed to speak with some authority as far as this government is concerned.

But once again this is a government that is endemically loose with the truth. And it has the gall to come to this place and to lecture us on questions of character. I have to say that twice in March, twice in April and twice in September the foreign minister made speeches which said there will either be no role whatsoever or, alternatively, a very limited role of limited duration. When it comes to this entire debate your deficit of character is alive again.

If we go to the arguments which you have advanced in this motion today, one of the principal ones that you have advanced relates to the Leader of the Opposition's dealings with our intelligence agencies. The member for Hotham made an excellent point in this debate. It is important to look back to see what our fearless foreign minister had to say. This was only a couple of days ago. The fearless foreign minister's challenge here in this parliament was:

The Leader of the Opposition has not sought the briefings from the Department of Foreign Affairs and Trade. Nor, as I understand it, has he sought ... briefings from the Department of Defence ...

No qualifications; a bald statement. 'He'—this is Mark Latham, the Leader of the Opposition—'has not got any briefings from DFAT or from the Department of Defence.'

I would have thought that the Minister for Foreign Affairs at least would understand that the Australian Secret Intelligence Service is a part of the Foreign Affairs portfolio. How could he have made that statement without actually having exercised the rudimentary caution of asking the Director-

General of ASIS whether there had been any contact with the Leader of the Opposition, let alone any contact with the Leader of the Opposition relevant to the entire question of Iraq? I have to say that the nature of the Australian Secret Intelligence Service's operations is intelligence, and it is intelligence directly related to national security insofar as it deals with intelligence concerning foreign countries—foreign countries like Iraq.

If anyone was in any doubt about the relationship between ASIS and the department of foreign affairs, I commend to them this week's edition of the *Bulletin*. We had the foreign minister today in the *Bulletin* launching the first ever on the record interview by any foreign minister on the operations of ASIS. It is his portfolio. Yet his statement here on 25 March was that the Leader of the Opposition had not sought any briefings whatsoever from any element of his agency. Is not ASIS an element of the Department of Foreign Affairs and Trade? It is certainly so in the estimates. It is the budget bid from the foreign minister which actually funds ASIS. This is an agency, according to the budget estimates, with a budget of something in the vicinity of \$100 million. It is not actually out there playing fiddlesticks; it is out there engaged in the serious business of this country's national security and, I have to say, engaged in this country's national security on matters most recently relevant to it, including matters relevant to Iraq.

The same applies to Defence. Go back again to the foreign minister's statement; that is, that the Leader of the Opposition did not seek any briefing from the defence department. Once again, you would have thought an abundance of caution would have required the foreign minister to ask: 'Is the Defence Signals Directorate part of the Department of Defence? Does it deal with any matters relevant to Iraq?' I have to say a cautious minister, a prudent minister, would have asked

such basic questions. But instead we had the foreign minister come in here and make this very basic and basically incorrect claim. When it comes to these fundamental propositions with which this whole debate began—these claims by the foreign minister several days ago—on a basic element of evidentiary truth he did not even check the most basic facts.

But then it gets worse for the Prime Minister. This is highly significant. We should refer to the Prime Minister's statement that he read out yesterday. It was about the Defence Signals Directorate. He said:

I have seen the record of the interview and there is no reference in that record of interview to Iraq. I am sorry—I have not seen the record of interview; I have been informed, rather, that there was no reference to Iraq. I have not seen the record of interview.

It does not sound an entirely authoritative statement. But what he is clearly saying is that there was no reference to Iraq. I am not verballing the Prime Minister. He said:

... there was no reference to Iraq.

Twenty-four hours later, once again with John Winston Howard, the script changes. What does John Winston Howard say today? Sliding out the back of his statement today—slipping it in a bit—is the fact that when it comes to the correspondence from the Deputy Secretary of Intelligence and Security there was a reference to Iraq. In fact, Mr Bonighton said, 'I gave several examples of the role of intelligence in providing operational support to the ADF.' Where? 'In Iraq.' Yesterday, we had a Prime Minister who said 'no reference to Iraq'; today, the senior officer of the Department of Defence responsible for the Defence Signals Directorate says there was a reference to Iraq. So the story yesterday changed into the story of today. I have to say it would be useful if the Prime Minister bothered to stick to the script.

Then we come to the very carefully crafted letter from ASIS quoted by the Prime Minister yesterday. What does it say? I will read it carefully. It says:

According to my recollection—
first caveat—

there was no discussion on strategic policy relating to Iraq. There was no substantive discussion on the role of the ADF in Iraq.

ASIS is not responsible for the ADF. Everybody understands that. Anyone faintly engaged in the national security apparatus of this country knows that ASIS is not responsible for the ADF. But the Australian Secret Intelligence Service does have other national security responsibilities. The fact that the Director-General of ASIS makes the statement in the terms that he does and in the careful language that he uses does not remove the possibility that that discussion actually included other references to ASIS's role in relation to Iraq beyond the role of the ADF. That is why this letter from the Director-General of ASIS has been so carefully crafted.

The Leader of the Opposition in this entire debate has been very careful and entirely responsible on these deep matters of national security. The Attorney-General laughs. The Leader of the Opposition has actually been mindful of his obligations when it comes to security and intelligence briefings. He did not seek, in response to the initial provocations, for the foreign minister to come in here and provide any detail about any briefings that he had had from ASIS and DSD. He did not do that. How many times have we heard the foreign minister going on and on about the fact that the Leader of the Opposition had not sought briefings? The Leader of the Opposition knew throughout that that he had in fact had briefings from units of the defence department and from units of the department of foreign affairs. He was responsible.

I will tell you who has not been responsible: the Prime Minister. We have seen that in relation to the monsterring of officials when it comes to the Australian Federal Police and Keelty. I have to say, as someone who used to work in the Department of Foreign Affairs and Trade, that I am deeply concerned about a Prime Minister who extracts from the Director-General of ASIS a letter which details what ASIS is not responsible for and, by potential implication, infers what ASIS may be responsible for. That is irresponsible. The Leader of the Opposition has been responsible in terms of his obligations for national security in this country. I am deeply concerned, as someone who has worked in this department before, about the implications of this irresponsible political act by the Prime Minister in politically manhandling an institution in the way he has.

I would also suggest that those opposite have a bit of a look at the Intelligence Services Act. Section 12A of the Intelligence Services Act says:

Both the Director and the Director-General must take all reasonable steps to ensure that:

(a) his or her agency is kept free from any influences or considerations not relevant to the undertaking of activities—

that is, activities by the agency. I am deeply concerned about the potential for influences being brought to bear on the director-general of a statutory agency—ASIS—as far as the discharge of that director-general's statutory responsibilities is concerned. Further, section 19, which is headed 'Briefing the Leader of the Opposition about ASIS', says:

The Director-General must consult regularly with the Leader of the Opposition in the House of Representatives for the purpose of keeping him or her informed on matters relating to ASIS.

Where does it say in section 19 of the ASIS Act that the foreign minister shall then obtain a letter from the Director-General of ASIS

about what the opposition leader has been briefed on? That is not provided for in this act at all, and I regard that as highly irresponsible.

The Leader of the Opposition has handled himself in an entirely responsible manner on this matter. I have to say that what we have seen yet again is a Prime Minister, a foreign minister and others who have been loose with the truth on national security, loose with the truth when it came to prewar intelligence on Iraq, loose with the truth when it came to the impact of our involvement in Iraq on the terrorist threat to this country and loose with the truth when it came to a proper and sensible debate in this parliament about an appropriate timetable for the withdrawal of our troops from Iraq. They talk about character; this is a deficit of character, this is a desert of character, this is a want of character, and they should be censured for it. (*Time expired*)

Mr RUDDOCK (Berowra—Attorney-General) (4.18 p.m.)—I would have expected in relation to the nature of the motion before us today, which brings into question the credibility of the Leader of the Opposition—

Mr Cox—Tell us about the kids overboard.

The DEPUTY SPEAKER (Hon. I.R. Causley)—The member for Kingston is warned.

Mr RUDDOCK—that we would have heard a substantial and forensic defence of the Leader of the Opposition and the way in which he has handled these issues. Right through this debate to date we have seen no defence of the Leader of the Opposition. We have seen the member for Lalor, the member for Hotham and now the member for Griffith speak about anything but the defence of the Leader of the Opposition. As I said as I started, this case most certainly called for a forensic defence of the Leader of the Opposition over the way in which he has dealt with

these very serious issues in relation to national security, the safety of our diplomatic personnel and the safety of Australian troops.

It is important to recognise that this is not a question about getting people out of Iraq as fast as we can—which I think was the statement from the Leader of the Opposition today. This was, as I think was in the resolution of the Senate, made very clear after our initial engagement and involvement. This is about how you undertake those ongoing activities as safely as possible to ensure the safety of those people who are engaged.

The real issue that is involved here is whether the opposition has been approaching the matter in a considered way and undertaking thorough briefings to find out the nature of the deployments and the circumstances in which people were held, or whether they were making an off-the-cuff, on-the-run statement of policy without adequate discussion and without adequate briefing. The substantial issue here, if you want to refer to opinion polling—as the member for Griffith seemed to want to do—is what the Australian people have been saying in relation to this matter. The Australian people have recognised clearly that this is not a situation in which you cut and run; it is a situation in which there needs to be a considered approach.

I think it is important in the context of these issues to recognise the nature of the defence that has been offered of the Leader of the Opposition. First, we saw the defence of diversion with the arguments yesterday that ATSIC should be abolished. What was the reason for putting that on the agenda yesterday? The only reason it was on the agenda yesterday was that they needed to have people talking about anything other than the Leader of the Opposition's credibility. I was not aware that there had been further announcements today, but I hear from the

member for Hotham that we had a baby care program announced today. Why today? That was clearly an intended diversion, but I would be very surprised if it were the sort of diversion that would substitute for what we are dealing with here.

Mr Sidebottom—Bring on the policy.

Mr RUDDOCK—When I look at the comments that have come from the member for Lalor it is clear that this was a situation in which she took the view—as she has and as those interjecting clearly have—in relation to defence that you do not defend your leader; you go out and attack the messenger. That is the approach that is taken: you mount character assassinations on those opposite and hope that that will focus people's attention on anything other than the Leader of the Opposition's credibility.

I think it is very important to understand the context in which we are debating this matter and why the issue of credibility becomes so important. We have troops in Iraq today who are playing very important roles in the rebuilding of Iraq and important roles in securing the safety of not only Iraqis but also Australians. At the moment we have people in Iraq who are providing for the security of Australian civilians and the Australian representative office. That security enables that office to advance Australia's political security and economic interests in Iraq. Those troops are defending and providing security for those Australians who are playing that important national interest role.

I do not know whether the opposition seriously believes that Australia should disengage from Iraq so that any political security and economic interests can no longer be pursued, but I suggest, in any considered way of addressing this issue, you would be asking the question: can you continue to maintain that presence—a civilian presence—without a security presence for those who are operat-

ing there? I recognise the importance of Australian military aircraft controllers, who at Baghdad International Airport have been playing a crucial role in transport links in and out of Iraq and who, even though they are Defence Force personnel, need the assistance of ADF personnel to ensure their safety and security.

I recognise that there is a relationship being built with the community, through the important role that we are playing in rebuilding opportunities for Iraqis. We are involved in community activities, establishing local kindergartens and helping the local police. We have undertaken a new role, at the request of those administering Iraq at the moment, in the establishment of a new Iraqi army—an army that will be vital to their future and their security—and Australian Army trainers are now there. There are also Navy and Air Force personnel playing roles in and around Iraq, depending on where they are located, helping to secure the situation in Iraq today. As these matters have been discussed, we have seen the opposition take different approaches almost daily to the ways it said those particular issues were going to be dealt with.

What we have here is a situation in which the Leader of the Opposition is endeavouring to obtain some credibility for himself after making the claim that we could withdraw Australian defence personnel from Iraq by Christmas. That was not a considered approach; it was an approach that was offered on a radio program. He did not intend to say that initially. The journalist concerned pressed him in order to bring those points out. When it was made very clear that this was policy on the run, he went back and tried to find ways and means to justify the approach he had taken by claiming that in March last year there was a resolution of the shadow cabinet—before the war had commenced. I think it was the day before hostili-

ties commenced, on 18 March, so on 17 March there was a shadow cabinet meeting in which the decision was taken to withdraw Australian troops. In other words, the caucus were looking at a situation to which troops had just been committed and saying, 'In that context, if we were in office we would be bringing them home.' That is what they were arguing, not what would happen as events unfolded—

Mr McMullan interjecting—

Mr RUDDOCK—You only have to look at the debate that has occurred since then, and you only have to look at the Leader of the Opposition's own comments. Look at the way in which the member for Griffith has, with care, tried to handle these issues by not answering the question on *Lateline*—by declining to answer the question—about when this issue was addressed, and he did that very—

Mr Rudd—Read the transcript.

Mr RUDDOCK—I have been through the transcript, and I watched the program. I also saw your body language and how awkward you felt about the whole issue.

Mr Rudd—You read the transcript; it says 'March'.

The DEPUTY SPEAKER (Hon. I.R. Causley)—The member for Griffith!

Mr Sidebottom—You're being loose with the truth.

Mr Rudd—You're always loose with the truth; read the transcript.

The DEPUTY SPEAKER—The member for Griffith!

Mr RUDDOCK—The fact of the matter is that the member for Griffith did not want to go out there and suggest when this decision had been made. This was a revision. People went back and said, 'When could we have found a decision?' They found a decision before the war started.

If it had been a consistent policy of the Labor Party over time, the member for Griffith would not have written to the Prime Minister, as he did, and people would not have argued, as the Leader of the Opposition did on 3 December, that this was not a matter on which you could make a comment as a newly elected leader. On the Neil Mitchell program, the Leader of the Opposition was asked, 'Would you pull out the troops that we still have in Iraq?' He said:

Well I have got to get briefings from Foreign Affairs and from the Defence department about the detail. I can't fly in with a top of the head assessment, I have got to base my judgements on fact. I am just ... 24 hours in the job and it's been a busy day and I have obviously got to get those ... briefings before I can make any ... considered judgement about what needs to be done. But I can say this, Labor wants to play a positive role—we didn't support this conflict, but obvious problems have arisen and we want to play a positive role in finding solutions to the difficulties in Iraq and obviously I will be consulting with all of the departments and security experts to get a handle on what needs to be done.

One would have expected those confidential briefings on this matter to have happened. That is why the foreign minister made it clear that he was prepared to have his officials take the Labor Party leader through the nature of the Australian commitments and the situations that would be relevant to the ongoing safety and security of Australian personnel.

The important point in relation to this particular debate in which we are engaged today is that the Leader of the Opposition, having made out that he had been thoroughly briefed on these matters and that he had had lengthy discussions about Iraq with officials of the Department of Foreign Affairs and Trade and the Department of Defence, has wanted to assert that meetings that were obtained for quite different purposes and were of a very different character were substantial briefings

on the broader issues involving Iraq. He wanted to hide behind the anonymity that is normally given to security briefings of that sort by suggesting that he may have been briefed more comprehensively by ASIS, the Department of Defence, the DSD and the security agencies and that they were substantial briefings on the broader issues involving Iraq.

The reality is that the briefings he had were of a very narrow character. That is why, reading the nature of the written advice that has been given by each of those organisations about the way in which the Leader of the Opposition was briefed, it becomes quite clear that the Leader of the Opposition's argument—that is, that he had lengthy discussions about Iraq with officials from the Department of Foreign Affairs and Trade, that he was well-briefed on these issues, that he understood all of the ramifications and that this was a considered option rather than a tactical play—becomes relevant. I think it is very important to look at the words of the Leader of the Opposition on 30 March when he was questioned on two occasions, because he suggested he had had discussions with officials from foreign affairs and Defence about that situation and he said that he had been sitting here shaking his head and wondering what Mr Downer was going on about. With regard to understanding the issue, he said that they had had good information flow, and were quite satisfied and that these regular briefings would continue. The fact is, we now know that the briefings were of quite a different character.

I think it is important to put on the record once again the information that was received. Firstly, Murray MacLean, the Deputy Secretary of the Department of Foreign Affairs and Trade, confirms that the department has no record of having provided a briefing on Iraq to the Leader of the Opposition. Secondly, we had a similar letter from Rick

Smith of the Defence Force, in which he makes it clear that neither he nor the Chief of the Defence Force, the Vice-Chief of the Defence Force, the Chief of Navy, the Chief of the Army, the Chief of the Air Force, the Deputy Secretary of Intelligence and Security, the Deputy Secretary of Strategy, the heads of the strategic operations or the international policy divisions have provided any briefing to Mr Latham on the subject of Iraq.

So we come to the nature of the briefings that were provided. If you look at each of the statements that have been tabled by the Prime Minister on ASIS and DSD, you see that they were narrow briefings relating to the functions that those organisations undertake in which there may have been an incidental reference to Iraq, for which the Leader of the Opposition tries to take comfort. I have to say that, having listened to the debate today, there has been no forensic defence of the Leader of the Opposition, and the opposition has clearly failed to substantiate that this was a considered initiative on the Leader of the Opposition's part. (*Time expired*)

Mr McMULLAN (Fraser) (4.33 p.m.)—We have just been asked to accept two monstrous and almost breathtaking pieces of effrontery from the Attorney-General. The first is that he would have the effrontery to come in and seek to lecture anybody about being careful to check your facts before you go public. This is the man who started the whole 'children overboard' scandal on the basis of a phone call from somebody in a meeting, and he has never corrected that in all the time since. A whole book has been written about how grossly, arrogantly and wantonly misleading this gentleman was, and he comes in and has the nerve to talk about getting briefings before you go public. What effrontery, even from you!

Then we have crocodile tears about the possibility that something about ASIS might

have been disclosed. We have had grossly irresponsible behaviour from the government in this matter. The foreign minister should have known—and I think did know—that the Leader of the Opposition had an ASIS briefing. He has been coming in again and again taunting him that he had not had any briefings because he knew it was not proper for the Leader of the Opposition to disclose that he had had the briefing. He came in again and again seeking to abuse the responsibility of the Leader of the Opposition because he would not get up and say, 'I've had an ASIS briefing.'

Now we have the Prime Minister going beyond this and, by strong inference, making reference to the possibility that there might be a role for ASIS in Iraq. This is a very dangerous thing to be doing. I do not know if people appreciate quite how dangerous it is. I was a minister in the Department of Foreign Affairs and Trade and, on many occasions, acting foreign minister, having some responsibility for ASIS. I had that formal first briefing from ASIS. I am certainly not going to talk about what was said in it, but I understand the nature of that briefing. We on this side all know—and I suspect that you would think—that, if either DSD or ASIS came and gave him a briefing, he might have asked them a question and they might have answered it. And, in the context of international security, it is just possible that he might have asked them a question about Iraq and they might have answered it. They were very senior officials who came. It was not just some minor functionary to give you a sketch guide to say, 'This is the structure of the agency.' It was the head of the agency and the relevant Deputy Secretary of Defence. It is scandalous for the government to be running the risk of exposing what possible role ASIS may have in these matters. It is a dangerous precedent that has never been set before. In an attempt to get a political advantage, they

have gone perilously close to disclosing matters that have never been disclosed in this sort of debate before.

I want to come to the defence of the officials who have clearly been browbeaten by the government in this matter, because I think they have acted with integrity. The government, in their 'phone call from Arthur' tradition, have put great pressure on these officials to provide letters that will comprehensively repudiate the position of the Leader of the Opposition. Do you think if for one minute they could have given an unambiguous letter that clearly repudiated his position, without qualification, they would not have done so? Of course they would have. They would have said, 'There is no skerrick of truth in what the Leader of the Opposition said.' But these two decent, intelligent, senior officials have provided carefully crafted letters that anybody—including the Prime Minister—with a skerrick of experience or knowledge knows refer clearly to the fact that Iraq was discussed in both meetings. They say what was not discussed but, as in all these types of letters, the key thing is what the letters do not say, and neither letter says Iraq was not discussed. The Attorney-General had the temerity to read a letter, quote it and leave out the third paragraph that refers to the bit about Iraq—and he then said, 'This is a great refutation.' This is the person who has responsibility for speaking for justice in this parliament!

As a member of the shadow cabinet and as an interested member, I am challenged by the Prime Minister, who moves a motion saying that we did not carry a resolution—but I was there for it, and I thought we did. We only drink water at those meetings, and I was fairly confident that my recollection was correct—and everybody has been and checked. I can just answer the question like this: clearly the assertion in the motion is untrue. That will not stop anybody on the government

side voting for it, because they do not care, but the motion is untrue. But I suppose the core question is: am I satisfied that what has been announced is consistent with the decisions, the policies and the principles of the Labor Party, our national conference, our shadow cabinet and our caucus? I can unequivocally say, 'Yes, I am.'

Let us deal with this furphy that the Treasurer started—and the Deputy Prime Minister, as a usual follower of the Liberal Party, pursued and the Attorney-General just sought to extend—which is that we only made this decision before the war and that there was no subsequent decision. That is clearly—on the face of the record that had been stated by the Leader of the Opposition before the Treasurer spoke—not true. It is clearly, unequivocally, not true. That does not seem to matter. It is the department of truth: if you keep asserting a lie often enough, someone will believe it. But it is just self-evidently not true.

I suppose on this side we should be taking some encouragement because what we have here is a classic example of the sorts of parliamentary tactics governments come up with in their dying days. They closed down question time. Now if you had actually been confident of your position you would have had question time, because what would have happened? There would have been 10 dorothe dixers—or more if he wanted them—to the Prime Minister, and we would not have had a chance to answer. If he had really thought, 'We have got the goods here. This is the issue. I'll get myself 10 four-minute bursts at the Leader of the Opposition, and he will not be able to reply', that is what they would have done. But, oh no, what would have happened is that he might have got 10 questions about the barbecue stopper—and that they did not want to have. They did not want the barbecue stopper coming up, be-

cause that is what Australian families out there want to hear about.

And we have the extraordinary proposition from the Leader of the House—who I think halfway through his speech regretted he did not limit the time for speeches to 7½ minutes because in the second half he did not have anything to say—that somehow or other this policy had been confected between yesterday and today so that we could have a diversion. I wish that I had not had to go to all those ERC and PRC meetings over the last several months to finalise that—my life would be a lot better—but there has been a lot of very detailed hard work for weeks and months on a proposition that we first announced in principle two years ago and that we have worked up in considerable detail since. And what a ridiculous proposition to have senior ministers coming in here pretending that somehow or other all that documentation and all that work has been confected and manufactured in the last few days. It is simply not credible and it is also not true.

There are people in this parliament who have been here longer than me. The Prime Minister has been here twice as long as me, but there are not that many people—

Mr Murphy—He has been here too long, Bob.

Mr McMULLAN—We all know that. But I have never before seen ASIS or DSD used in the way they have been used in this debate. I have been following public affairs in this country for 30 years, and I have never seen these resources used in such a blatant political manner. I have seen the Defence Force used like it once before—in the last election—and they were outraged. I represent more defence personnel than anyone else in this parliament and those people in my constituency were privately seething about the manner in which they were mis-

used and abused—the way in which their loyalty, their commitment, their preparedness to act in accordance with their oath and serve the government of the day loyally was abused and misused. They hated it. Now what we find is that that is being extended to our security and intelligence services. And they are very important elements of our national interest. They always have been but at no time more than now. The war on terror is a war about intelligence. What is fundamentally required is that all Australians can have confidence that our intelligence services are well resourced, well serviced and absolutely beyond reproach. I believe as individuals they are, but they are being abused and misused by the government in a dangerous way.

This is a serious example of what happens when a government is in its death throes. It comes up with tactics like this. It keeps coming up with red herrings. It shows desperation. It clings to fading issues as new ones emerge. There is another feature you often see in the death throes of governments: they bring on motions and the leaders get a bit outperformed by the deputies, and the leaders halfway through say, ‘I’m not sure whether this was such a good idea.’ Clearly that happened today, because the Prime Minister was as flat as a tack. I did not like the substance of what the Treasurer had to say, but did he outperform him or not? Some of us who have been here a while have seen this happen before, and we think it is a sign there is a problem. It is a serious problem for a government. Yesterday we had the evidence that the Prime Minister came in to the Leader of the House when he had made that little blunder—I was trying to find a word that I could use in parliament to describe it.

Mr Murphy—A stuff-up.

Mr McMULLAN—That was the nonparliamentary word I was trying not to use. And the Prime Minister came in and said, ‘What

have you done?' I suspect he is over in the executive wing again with the Leader of the House, saying, 'What have you done? You've exposed me first of all as someone who is desperately trying to avoid a debate which we should be having and the government should be confident it can win. Secondly, you have exposed me because I was so comprehensively outperformed by the Deputy Leader of the Liberal Party in a manner that won't be useful to my long-term circumstances.'

But it is very difficult for anybody to sit here calmly and quietly and accept lectures about not misleading the public from this Prime Minister. He stands here barefaced and pretends that he thinks misleading the public is bad, when he is the patron saint of misleading the public. Nobody in Australian public life in the last 30 years has a track record to match. There was of course about him the famous *Illawarra Mercury* headline that we all used to enjoy holding—particularly the former member for Cunningham—which said, 'Lies, lies, lies.' And who were they talking about? The member for Bennelong, the then Treasurer, the now Prime Minister. Nobody else has ever had such an unequivocal character assessment quite so forcefully, precisely and accurately put about his position in public life—and he has been living up to it for 27 years without qualification. He is a serial offender who I think is probably now incapable of telling the difference between truth and fiction. He comes in here and asserts that those things which are not true are and that those things which are true are not. He cannot tell the difference any more between truth and fiction. It is a dangerous situation to be in. It flows from the extraordinary concept of core and non-core promises—a proposition which I think has done more than any other to undermine the confidence of the Australian

public in parliaments, governments and our democratic process.

I want to conclude on one last question. Who is actually running the country? We have had all these ministers in here operating on the basis of this stunt, standing around and thinking up clever tricks to play. We actually would like you to be out there doing something about work and family. We do not actually want to be the first ones doing it. We would be happy to put our propositions in competition with yours. Go and do some work. Focus on the problems that are troubling every Australian family every day of their lives. Get out there and start doing something about work and family. Get out and start doing something about the enormous tax burden you are putting on Australians. Do something about what is happening in the health system and the education system, causing a crisis for Australian families. Don't just come in here with your clever stunts and your attempts to divert attention from your inability to deal with the barbecue stopper. Don't just come in here because you think you have a sliver of opportunity to slither in and come up with some political advantage. Get on with the hard graft of coming up with some policy for Australians. (*Time expired*)

Mr BROUGH (Longman—Minister for Employment Services and Minister Assisting the Minister for Defence) (4.48 p.m.)—The member for Fraser encapsulated everything that the opposition has had to say about this debate this afternoon. He talked about red herrings. He said that this—a debate about honesty in politics, about sending our troops to or returning our troops from Iraq, about protecting them where they are today in the interests of this nation—was a red herring. He said it was a diversion. He said it was a stunt. These are the adjectives that the opposition has been using today to describe what has been an effrontery to the Australian pub-

lic—the absolute dishonesty to the Australian troops, to the ADF in general, to public servants and, most importantly, to the public as one.

The Australian public must wonder what we have in an opposition when today they have heard one member of the opposition after another get up and not one of them try and defend their leader—because, quite frankly, you cannot defend the indefensible. Here is a man who of his own volition has come into the House and made a clear statement that he received two briefings, one on 5 January and one on 11 January. By his own record, the meeting of 11 January covered nothing on Iraq. The letters that have been provided by the personnel that delivered that briefing say just that. One letter says:

These were briefings in accordance with section 19 of the Intelligence Act 2001. I briefed the Leader of the Opposition about ASIS. I was accompanied by the Assistant Director General. There was not—

and I do not think this is in dispute by the Leader of the Opposition—

any discussion on Iraq.

However, on 5 January there was a second meeting. This is the one briefing that the Leader of the Opposition, the member for Werriwa, is hanging his hat on. He is saying that this was, to quote his words today, a ‘comprehensive briefing’ on Iraq. How long did this briefing last? I would have thought a briefing covering all of the subjects that were supposedly covered would last maybe two or three hours. No: in fact the briefing on 5 January by Mr Bonighton lasted just 45 minutes—45 minutes to cover a plethora of security issues that are very important and significant to this nation, our future security and the war on terrorism.

Of course they covered the defence facility at Pine Gap, and no doubt that was covered in some considerable detail, given the

fact that the opposition leader subsequently went to Pine Gap and would no doubt like to have thought that he knew something of the issue before he went—that is quite reasonable. They also covered several other issues to do with, of course, security issues around ASIS and intelligence briefing. There were 45 minutes to cover off on a range of issues, and in that time, as Mr Bonighton has said:

There was no discussion of policy or strategic matters relating to the deployment of ADF forces in Iraq.

Those are not the government’s words. They are not the Prime Minister’s words. They are not the defence minister’s words. They are the words of an independent official, the Deputy Secretary, Intelligence and Security, in the Department of Defence.

I say again: there were no discussions of policy or strategic matters relating to the deployment of ADF personnel in Iraq. That is the fundamental issue. This is the only time that the Leader of the Opposition contends that he was briefed on the subject, yet here he is found out in this minute, which says quite clearly that there was no such discussion. Even if there had been some discussion on the matter, when you have covered off on the plethora of security issues in 45 minutes, how much time could you allow for a thorough discussion of our deployment of troops, the roles they were undertaking, what their objectives were, the time lines for their return, what the implications would be if they returned, what security there could be to assist them over there and what would be the implications for our NGOs et cetera if they were returned to Australia prematurely. Quite obviously, any thinking person would know that that would be limited at very best. But we do not have to rely on that. We know for a fact that there was no discussion of policy or strategic matters relating to the deployment of ADF personnel in Iraq. And that is exactly what this is about, because the oppo-

sition leader has contended time and time again—in this place and in radio interviews—that that in fact was the one occasion on which he was thoroughly briefed. ‘Comprehensively briefed’ was the phrase he used: how comprehensively briefed can you be in such a period of time? Quite clearly, he is found wanting with the truth.

Why is this such a significant issue? Because it goes to character. It goes to the character of the person who would lead this country and, most importantly, lead our troops—lead our troops and potentially put them into peril. Leadership is about integrity. It is about honesty, it is about judgment and it is about character above all else. It is about people saying that they would follow that individual’s judgment—that they trust that person. Because, if you cannot trust your leader—in any walk of life—then you do not have a leader; you do not have anyone you would follow.

Here we are, talking today about a man who likes to use the word ‘character’. He is a man who likes to talk about courage. In an article in the summer 2003 edition of *Australian Defence Magazine*, the Leader of the Opposition said:

But we will not win this war by being better people—

these are the Leader of the Opposition’s words—

We will win this war by being better warriors.

War is not primarily a test of character.

Well, I tell you, the one thing I would give the soldiers, the sailors and the airmen I have spoken to as the Minister Assisting the Minister for Defence over the last six months or thereabouts is character, because without character under fire they fall to pieces. Our defence forces do not fall to pieces. They are men and women of character and without that character their training, their equipment and their doctrine will stand for nothing. Yet

we have the opposition ‘leader’—and I use the word reservedly because it is not an accurate description of the man—saying that war is not primarily a test of character. Well it is a test of character, and that character must start to be shown in this place—whether by the opposition leader or the Prime Minister. There has been one leader in this House who has shown character time and time again: when the courageous decision to go to East Timor was taken; when we stood up with our allies in Iraq; and when we took our troops to the Solomon Islands to protect our region. Those were tests not only of the character of our defence personnel but of our parliamentary leaders and, in particular, of the Prime Minister.

In the next sentence of that article, the Leader of the Opposition made another interesting comment. He said:

It is a test of our ability to seek out and engage the enemy, to kill or capture him, and to repel his attack.

I was wondering where I had heard words like that before. I had seen them in a document defining the role of the infantry, and they go something like this:

The role of the infantry is to seek and close with the enemy, to kill or capture him, to seize and to hold ground, to repel attack, by night and day, regardless of season, weather or terrain.

That is the role of the infantry in this country. So here we have a bloke who plagiarises in one sentence and in the sentence before says to the very men and women he expects to close with the enemy, killing or capturing them, that character is not an issue. Character is fundamental to the debate here today. It is the fundamental that underpins the success of our defence forces whenever they serve us proudly overseas, as personnel are doing right now.

Let us just presume for a moment that the Leader of the Opposition has some deep,

considered understanding of the issues of defence and of the personnel that serve within our defence forces. You would have to have thought that, if you had listened to his comments in a doorstep on 28 March—

Ms Jackson—Which year?

Mr BROUGH—It was 28 March 2004, just three days ago. Three days ago your leader said:

... the government has really got to develop a strategy for how it can respond to security concerns in this country by transferring our troops from Iraq to Australia ...

By his very words here, he is saying that the transfer of our troops from Iraq to Australia will determine our security in this country. You would think that he would base that on some thorough understanding of defence matters—of who is in fact deployed in Iraq at the moment. Mr Deputy Speaker Jenkins, I will tell you who we have deployed in Iraq currently and you make the decision about whether or not they are going to be fundamental to our needs in securing this great country. They include: an Australian joint task force headquarters element; a naval component of 240 personnel, first on HMAS *Melbourne* and then on *Sturt*, as they change over; a RAAF C130 Hercules detachment of about 120 personnel; an air traffic control detachment and support personnel at Baghdad airport; a security detachment of about 85 personnel, including armoured personnel vehicles and an explosive ordnance detachment to provide protection and escort for Australian government personnel working in representative offices in Baghdad; up to 15 analysts and technical experts in Iraq; an Australian contribution to coalition headquarters and units, with 50 personnel; a PC3 Orion detachment of about 160 personnel, with two aircraft and associated command and support elements, supporting both the rehabilitation operation in Iraq and the coali-

tion operations against terrorism; and a military adviser to the UN special representatives of the secretary-general in Iraq.

None of our counter-terrorism units are there. None of the plethora and the hundreds of millions of dollars that this government has spent in providing additional counter-terrorism facilities and capability in this country on the west coast and on the east coast—none of those are there; they are all here. They are here in Australia looking after our domestic security. The personnel deployment that he is now referring to—and he is talking about just the component within Iraq, not even those within the area of operations—is down to about 280 personnel. We have 52,000 people in this country dedicated to the defence of our nation. By and large, we have all of our counter-terrorism bodies here now. We had reservists on the weekend on call-out, and they are going to supplement that work as well. We are not at risk by having our troops in Iraq. Furthermore, if we withdrew them before the security of Iraq or its welfare into the future could be assured, we would probably put those troops at risk and risk al-Qaeda seeing this as a weak government.

This is not the only time that the Leader of the Opposition has shown his total lack of understanding—and I am being generous in using that term—when it comes to our defence. He was the author of the now failed policy of ‘coast guide’. I will quote from that document. I know the member for Barton has had a few things to say about this too, unfortunately. In that document the Leader of the Opposition says that the Navy frigates’ routine surveillance and interdiction operations are expensive and inappropriate. He goes on to say, ‘These ships cost \$1 million per ship day for this task.’ And this is the best bit from the bloke who wants to be the leader of this country: ‘They are not capable of operating safely in blue-water protection roles.’

These are the ships in the gulf; these are the ships that go down to our southern oceans—the last Anzac was launched only a couple of weeks ago—these are the front line; they can travel anywhere in the world, I tell the member for Barton; they are front-line, blue-water ships. And the Leader of the Opposition says they cannot operate in blue water. This is the man who says: ‘I’m credible. I know what I’m talking about. I want to defend this nation,’ and he does not understand that.

Further, he goes on to say, ‘For instance, sailors have to jump 10 metres from the deck of a warship into the water to recover people.’ There is not a deck in the Australian Navy 10 metres above the waterline—not one—and, if he were on a frigate, he would have to be standing on the bridge. What fundamental flaws are these of a man who thinks he can actually lead this country, a man who has been found out on his military knowledge and his application of it, and most fundamentally his character? Character is based on being able to tell the truth and, when you get it wrong, having the guts to come forward and say, ‘I got it wrong,’ and correct the record, but he has not been prepared to do that. He has no defence.

The member for Barton is the last speaker from the opposition. It will be up to him to get up and be the only person who would attempt to defend his leader. Mr Deputy Speaker Jenkins, would you trust the Leader of the Opposition with troops? Would you trust that man with your future? Would you trust that man with your country? The answer, quite clearly, to all three of those questions is no—not today and not in the future. It is too big a risk to this nation.

Mr McCLELLAND (Barton) (5.03 p.m.)—I rise in support of the opposition’s amendment to the government’s motion. The Minister for Employment Services concluded his discussion by talking about character.

One of the characteristics of character is living by your own standards. On 17 February, the Attorney-General, who is in the House, in respect of an accusation that the opposition had released the contents of a briefing from, in that case, ASIO—which, of course, was disputed most vigorously, but to use the outrage of the Attorney-General back at the government—said:

When you seek to canvass and traverse the sorts of inquiries that are being undertaken in relation to national security issues, you are taking a highly irresponsible and dangerous course. I do not think it gives the opposition any credit whatsoever for those who are fully briefed to pass information on to those that are not.

Here we have to consider who has not been briefed about the activities of our security services and security agencies. Of course, the terrorists confront our troops in the most dangerous part of the world. What the government has done in canvassing the subject matter of these briefs is, at the very least, to reveal to those people much more than they need to know about the operations of our intelligence agencies in that most dangerous area of the world.

The previous speaker spoke of the danger to our troops and the danger to non-government agencies. I suggest that what the government has done for its own partisan political advantage is the height of irresponsibility, and we sincerely hope that no adverse consequences come from it, because those terrorists in the most dangerous part of the world will not be aware of who is or who is not involved in our security agencies. What has been done for partisan political purposes is quite simply an outrage. It is condemned by the government’s own standards of traversing the subject matter of these most confidential of briefings, according to the custom and practice that has developed over the last two decades, where the

Leader of the Opposition has received a briefing.

Why have they done that? Why have the government knocked out question time today? They have done it because they do not want to talk about matters of significance to the Australian people. Basically, they know they are in strife, but they have been prepared to climb over the bodies of the public servants to protect their own political hides—to sacrifice the integrity of the Australian Public Service to protect their own political hides.

There is nothing more important to the defence of the safety of Australians, at a time of national challenge—which we certainly face here, as we are facing a war against terror—than the integrity and credibility of our security agencies. The Australian people must respect their independence and the fact that they are totally neutral from the political games that occur in this House. This is a political game initiated by the government, and it unquestionably has compromised senior public servants in crucial security roles—not only domestic security but literally in a context where Australian troops are in danger in a most dangerous part of the world. What has occurred here is nothing short of an outrage.

It has been said previously that, when we are talking about the Howard government, we are not talking about a conservative government in the traditions of conservative government; what we are talking about is a political gang. And the standover tactics that they have applied to those most senior and respected public servants are tactics that would be appreciated and applauded by any of the worst gangs on the docks of Sydney or Melbourne. It is nothing short of political thuggery.

Mr Deputy Speaker Jenkins, put yourself in the position of these most senior of public servants. They are prevailed upon by the

government of the day, by their political masters, who have been prepared to show ruthlessness. Put yourself in their position, being prevailed upon by their political masters to join in a partisan political debate. What do they do? Do they ignore their political masters? Contemplate the situation that they face in making that decision. It is a situation that they should not have been placed in, and it is one that the government needs to be condemned for.

When speaking in the defence of the AFP Commissioner, Mick Keelty, I said that the attack on him was not simply an attack on Mick Keelty; it was, if you like, the government taking on one of the toughest of public servants to set an example to the rest of them of what would happen if they did not toe the government's party political lines. Here we have seen senior public servants in our intelligence agencies participating in briefing the Leader of the Opposition, providing confidential briefings that all are expected to respect but which are revealed by the government. We have a government here that literally spies on its spies for its own political purposes and has compromised our intelligence agencies. But you have to look at the insight of this government in terms of what it sees as the role of these briefings. Again, in the course of that parliamentary debate on 17 February, the Attorney-General, who is here in the chamber, said:

The government offers an indulgence to the opposition for briefing in relation to matters where national security is involved ...

In fact, it is not an indulgence at all; it is a right of the opposition leader under section 21 of the ASIO Act, in the case of ASIO, and under section 19 of the Intelligence Services Act. With respect to the background to that custom and practice, the then Attorney-General, Senator Gareth Evans, said:

Since the two Hope Royal Commissions, Governments of both political persuasions have

adopted a practice of keeping the Opposition Leader and, as appropriate, shadow Ministers, informed of significant intelligence and security matters, on the understanding that these briefings remain strictly confidential in order to protect national security.

When it comes to a choice between national security—the safety of Australian troops and non-government agencies in a most dangerous area of the world—and the government's partisan political interests, it is this government's partisan political interests that win each and every time.

It is accepted generally among those who are observers of political science that this government have well and truly been infected by the born-to-rule virus that so frequently infects the conservative side of politics in its dying stages—infected by the born-to-rule mentality. All I can say is that they simply do not have the style of those previous conservative administrations. There is no way that a Malcolm Fraser or a Robert Menzies would have prejudiced the security of this country or the safety of Australian troops or non-government agency workers for partisan political interests. This is a government that see themselves as born to rule. The trouble is: they have no style and they have no respect for the fundamental institutions of government, no respect for our most senior public servants who are entrusted with vitally important roles of protecting the security of this nation. They are, as I say, in the throes of demise, but they are prepared to crawl over the heads of public servants for their own survival. That is not good enough. That is not a characteristic that we have in Australian governments, but it is a characteristic revealed fairly and squarely by this motion.

If we look at the facts of what has occurred, we see a bit of Howard government speak. The Minister for Foreign Affairs said on numerous occasions that the Leader of the Opposition had no briefings about these mat-

ters. Those comments are on the public record on 24 March, 29 March and twice on 25 May. Indeed, I think the Prime Minister himself made those assertions. Well, the Leader of the Opposition stood up and said he had had the briefings and stated when those briefings occurred. The Prime Minister today acknowledged that the briefings occurred, but in traditional Howard government speak said that there had been no direct and relevant discussion on Iraq. So we have gone from 'no briefings' to 'no direct and relevant discussion'; the Prime Minister acknowledged that there was a discussion of matters concerning Iraq but he said that there was no direct and relevant discussion.

What is more direct and relevant to the position of our troops in Iraq than why we went into that war? One of the fundamental reasons for going to war was outlined by the Prime Minister on 13 March 2003 when he was asked if we would still be going to war if Iraq relinquished its weapons of mass destruction. He said:

Well I would have to accept that if Iraq had genuinely disarmed, I couldn't justify on its own a military invasion of Iraq to change the regime.

That in itself is of direct relevance to a judgment on the ongoing presence of our troops there. Let us talk about hypocrisy. Let us go through some comments made by Alexander Downer, the foreign minister, during this time. On 15 December 2003 on ABC's *PM* program he said:

By the middle of next year, Iraq should have more than the Iraqi Governing Council they have, but a genuine Iraqi government. And by the time we reach that point, there will obviously be some review of military commitments that different countries have made.

That was one statement he made. The foreign minister said on 31 March last year:

Our commitment is that we'll obviously form part of the Coalition of the Willing, which we're doing. When the war is finished we will be more or

less withdrawing the Australian military contribution, and we've made that clear that we're not going to keep any significant number of troops in Iraq in the post conflict situation.

He also said in that interview:

Well the Australian military will continue to make a contribution where it usefully can at the level of the three services and once the war is finished there'll be of course no further contribution for them to make ...

He said on 10 April:

Well we certainly have an aid involvement in the reconstruction of Iraq. He—

the Prime Minister—

was I think talking about a continuing Australian involvement in the stabilisation force. We don't want to have substantial numbers of troops remain in Iraq and that's a point that he made to President Bush quite some time ago and I've repeated during my recent visit to the United States. But no, the Prime Minister and I have always said we'll have a role in assisting with the reconstruction and rehabilitation of Iraq but not a military role.

What gross hypocrisy to then attack the Leader of the Opposition for saying that we have to have an exit strategy to bring our troops home after there is a transition to a new government in Iraq. Of course we need to have that, and of course that is the advice that the government have had but they are not honest enough to say that. They are not honest enough to tell the Australian people. They are prepared to play politics. That is all they do for their own political survival. Worse than that, they are prepared to prejudice Australia's national security and the safety of Australian troops in a most dangerous part of the world for their own partisan political advantage. (*Time expired*)

Question put:

That the words proposed to be omitted (**Mr Latham's** amendment) stand part of the question.

The House divided. [5.23 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes..... 78

Noes..... 58

Majority..... 20

AYES

- | | |
|-----------------|------------------|
| Abbott, A.J. | Anderson, J.D. |
| Andrews, K.J. | Anthony, L.J. |
| Bailey, F.E. | Baird, B.G. |
| Baldwin, R.C. | Barresi, P.A. |
| Bartlett, K.J. | Billson, B.F. |
| Bishop, B.K. | Bishop, J.I. |
| Brough, M.T. | Cadman, A.G. |
| Cameron, R.A. | Causley, I.R. |
| Charles, R.E. | Ciobo, S.M. |
| Cobb, J.K. | Costello, P.H. |
| Dutton, P.C. | Elson, K.S. |
| Entsch, W.G. | Farmer, P.F. |
| Forrest, J.A. * | Gallus, C.A. |
| Gambaro, T. | Gash, J. |
| Georgiou, P. | Haase, B.W. |
| Hardgrave, G.D. | Hartsuyker, L. |
| Hawker, D.P.M. | Hockey, J.B. |
| Howard, J.W. | Hunt, G.A. |
| Johnson, M.A. | Jull, D.F. |
| Kelly, D.M. | Kelly, J.M. |
| Kemp, D.A. | King, P.E. |
| Ley, S.P. | Lindsay, P.J. |
| Lloyd, J.E. | Macfarlane, I.E. |
| May, M.A. | McArthur, S. * |
| McGauran, P.J. | Moylan, J. E. |
| Nairn, G. R. | Nelson, B.J. |
| Neville, P.C. | Panopoulos, S. |
| Pearce, C.J. | Prosser, G.D. |
| Pyne, C. | Randall, D.J. |
| Ruddock, P.M. | Schultz, A. |
| Scott, B.C. | Secker, P.D. |
| Slipper, P.N. | Smith, A.D.H. |
| Somlyay, A.M. | Southcott, A.J. |
| Stone, S.N. | Thompson, C.P. |
| Ticehurst, K.V. | Tollner, D.W. |
| Truss, W.E. | Tuckey, C.W. |
| Vaile, M.A.J. | Vale, D.S. |
| Wakelin, B.H. | Washer, M.J. |
| Williams, D.R. | Worth, P.M. |

NOES

- | | |
|----------------|----------------|
| Adams, D.G.H. | Albanese, A.N. |
| Bevis, A.R. | Brereton, L.J. |
| Burke, A.E. | Byrne, A.M. |
| Corcoran, A.K. | Cox, D.A. |

Crean, S.F.	Crosio, J.A.	Forrest, J.A. *	Gallus, C.A.
Edwards, G.J.	Emerson, C.A.	Gambaro, T.	Gash, J.
Evans, M.J.	Ferguson, L.D.T.	Georgiou, P.	Haase, B.W.
Ferguson, M.J.	Fitzgibbon, J.A.	Hardgrave, G.D.	Hartsuyker, L.
George, J.	Gibbons, S.W.	Hawker, D.P.M.	Hockey, J.B.
Gillard, J.E.	Grierson, S.J.	Howard, J.W.	Hunt, G.A.
Griffin, A.P.	Hall, J.G.	Johnson, M.A.	Jull, D.F.
Hatton, M.J.	Hoare, K.J.	Kelly, D.M.	Kelly, J.M.
Irwin, J.	Jackson, S.M.	Kemp, D.A.	King, P.E.
Jenkins, H.A.	Kerr, D.J.C.	Ley, S.P.	Lindsay, P.J.
King, C.F.	Latham, M.W.	Lloyd, J.E.	Macfarlane, I.E.
Lawrence, C.M.	Livermore, K.F.	May, M.A.	McArthur, S. *
Macklin, J.L.	McClelland, R.B.	McGauran, P.J.	Moylan, J. E.
McLeay, L.B.	McMullan, R.F.	Nairn, G. R.	Nelson, B.J.
Melham, D.	Mossfield, F.W.	Neville, P.C.	Panopoulos, S.
Murphy, J. P.	O'Byrne, M.A.	Pearce, C.J.	Prosser, G.D.
O'Connor, B.P.	O'Connor, G.M.	Pyne, C.	Randall, D.J.
Price, L.R.S.	Quick, H.V. *	Ruddock, P.M.	Schultz, A.
Ripoll, B.F.	Roxon, N.L.	Scott, B.C.	Secker, P.D.
Rudd, K.M.	Sawford, R.W. *	Slipper, P.N.	Smith, A.D.H.
Sciacca, C.A.	Sercombe, R.C.G.	Somlyay, A.M.	Southcott, A.J.
Sidebottom, P.S.	Smith, S.F.	Stone, S.N.	Thompson, C.P.
Snowdon, W.E.	Swan, W.M.	Ticehurst, K.V.	Tollner, D.W.
Tanner, L.	Vamvakinou, M.	Truss, W.E.	Tuckey, C.W.
Wilkie, K.	Zahra, C.J.	Vaile, M.A.J.	Vale, D.S.
		Wakelin, B.H.	Washer, M.J.
		Williams, D.R.	Worth, P.M.

* denotes teller

Question agreed to.

Original question put:

That the motion (**Mr Howard's**) be agreed to.

The House divided. [5.30 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes.....	78
Noes.....	58
Majority.....	20

AYES

Abbott, A.J.	Anderson, J.D.
Andrews, K.J.	Anthony, L.J.
Bailey, F.E.	Baird, B.G.
Baldwin, R.C.	Barresi, P.A.
Bartlett, K.J.	Billson, B.F.
Bishop, B.K.	Bishop, J.I.
Brough, M.T.	Cadman, A.G.
Cameron, R.A.	Causley, I.R.
Charles, R.E.	Ciobo, S.M.
Cobb, J.K.	Costello, P.H.
Dutton, P.C.	Elson, K.S.
Entsch, W.G.	Farmer, P.F.

NOES

Adams, D.G.H.	Albanese, A.N.
Bevis, A.R.	Brereton, L.J.
Burke, A.E.	Byrne, A.M.
Corcoran, A.K.	Cox, D.A.
Crean, S.F.	Crosio, J.A.
Edwards, G.J.	Emerson, C.A.
Evans, M.J.	Ferguson, L.D.T.
Ferguson, M.J.	Fitzgibbon, J.A.
George, J.	Gibbons, S.W.
Gillard, J.E.	Grierson, S.J.
Griffin, A.P.	Hall, J.G.
Hatton, M.J.	Hoare, K.J.
Irwin, J.	Jackson, S.M.
Jenkins, H.A.	Kerr, D.J.C.
King, C.F.	Latham, M.W.
Lawrence, C.M.	Livermore, K.F.
Macklin, J.L.	McClelland, R.B.
McLeay, L.B.	McMullan, R.F.
Melham, D.	Mossfield, F.W.
Murphy, J. P.	O'Byrne, M.A.
O'Connor, B.P.	O'Connor, G.M.
Price, L.R.S.	Quick, H.V. *
Ripoll, B.F.	Roxon, N.L.

Rudd, K.M.	Sawford, R.W. *
Sciacca, C.A.	Sercombe, R.C.G.
Sidebottom, P.S.	Smith, S.F.
Snowdon, W.E.	Swan, W.M.
Tanner, L.	Vamvakinou, M.
Wilkie, K.	Zahra, C.J.

* denotes teller

Question agreed to.

PERSONAL EXPLANATIONS

Ms MACKLIN (Jagajaga) (5.32 p.m.)—Mr Speaker, I wish to make a personal explanation.

The SPEAKER—Does the honourable member claim to have been misrepresented?

Ms MACKLIN—I do.

The SPEAKER—Please proceed.

Ms MACKLIN—I claim to have been misrepresented by the member for Macarthur last night. The member for Macarthur made a personal explanation last night in which he accused me of having misrepresented him in the suspension of standing orders debate on Tuesday, when I relayed the story of a real constituent of the member of Macarthur who was referred to the electorate office of the Leader of the Opposition in 2002. The member for Macarthur’s only evidence to support his accusation against me was the failure of his office to have any record of contact with this constituent. I am very pleased to report that the record-keeping in the Leader of the Opposition’s electorate office is much better. This morning, the constituent, Mrs Gary Sparkes, has confirmed—

Mrs Bronwyn Bishop—Mr Speaker, I rise on a point of order. The indulgence, almost, that is being granted to the member opposite is not proper on a point of personal explanation. It has all the elements of debate, and to seek to have the opportunity to explain where you have been misrepresented has never been allowed in this way historically. It is being abused again and again. You said yesterday, when you allowed the Leader

of the Opposition to go on at great length, that this was an indulgence and it would not be extended to the backbench. I presume that would also include the frontbench. Therefore, it is quite out of order and I ask you to rule that way.

The SPEAKER—I indicate to the member for Mackellar that matters of personal explanation have become more longwinded than was the case, but there is nothing that I have allowed the member for Jagajaga to comment on at this point in time that is inconsistent with what has happened during my speakership. I am going to listen to the member for Jagajaga. I will interrupt her if she moves into debate, but I do not feel that at this point in time she has said anything which would prompt me to interrupt her.

Mr Brendan O’Connor interjecting—

The SPEAKER—I will deal with the member for Burke!

Mr Abbott—Mr Speaker, I rise on a point of order. The whole point of a personal explanation is to show where there has been a misrepresentation. Nothing that the member for Jagajaga has said indicates that there has been any misrepresentation at all. This is simply a political attack on the member for Macarthur, and it should be made by way of an adjournment speech.

The SPEAKER—I have ruled the member for Jagajaga in order and I have done so because I did hear the member for Macarthur’s personal explanation and I had allowed him similarly to indicate why he was raising an issue that had been raised by another member on the day before. The member for Jagajaga will continue and will come to the point of personal misrepresentation.

Ms MACKLIN—This morning, the constituent, Mrs Gary Sparkes, has confirmed that the member for Macarthur’s office told her that they were unable to help and that they do not get involved in these matters.

The SPEAKER—The member for Jagajaga must come to the point at which she was misrepresented.

Ms MACKLIN—She was later advised that, seeing how Mr Latham had started to help with the matter, she should stay with him. Good advice!

Honourable members interjecting—

The SPEAKER—The member for Jagajaga will resume her seat.

Mrs Irwin interjecting—

Mr Farmer interjecting—

The SPEAKER—I warn the member for Fowler and I warn the member for Macarthur! There is an understanding in this House that is built on the simple basis that everyone has the right to be heard. But it seems that, if someone is saying something you do not like, there is a compulsion on either side to interject. The standing orders are so framed to ensure that interjections are out of order, to allow free speech.

Mr COX (Kingston) (5.37 p.m.)—I seek leave to make a personal explanation.

The SPEAKER—When the member for Kingston has the attention of the Leader of the Opposition, he may proceed.

Mr Latham interjecting—

Honourable members interjecting—

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

AUDITOR-GENERAL'S REPORTS

Report No. 38 of 2003-04

The SPEAKER—I present the Auditor-General's audit report No. 38 of 2003-04, entitled *Corporate governance in the Australian Broadcasting Corporation—Follow-up audit*.

Ordered that the report be printed.

PERSONAL EXPLANATIONS

The SPEAKER—If in this instance I have the attention of the House, so that the member for Kingston can be heard, I will allow him to proceed. He only had to resume his seat because of the behaviour of people on both sides of the House.

Mr COX (Kingston) (5.38 p.m.)—Mr Speaker, I wish to make a personal explanation.

The SPEAKER—Does the honourable member claim to have been misrepresented?

Mr COX—I do.

The SPEAKER—Please proceed.

Mr COX—Yesterday in question time the Treasurer claimed that I had said that, if the Australian taxation system were reformed, the economy would be put into recession. I have checked the *Hansard* records of my speeches in this place from the time I was elected in 1998 until the 2001 election and I can find no statement by me that could be construed as suggesting that. I would be grateful if the Treasurer would provide me with a relevant reference for his statement.

The SPEAKER—The member for Kingston has indicated where he was misrepresented. The member for Kingston has given the House and the chair an illustration of how matters of personal misrepresentation should be dealt with.

PAPERS

Mr McGAURAN (Gippsland—Deputy Leader of the House) (5.39 p.m.)—Papers are tabled as listed in the schedule circulated to honourable members. Details of the papers will be recorded in the *Votes and Proceedings*.

MATTERS OF PUBLIC IMPORTANCE

Taxation: Family Payments

The SPEAKER—I have received a letter from the honourable Deputy Leader of the

Opposition proposing that a definite matter of public importance be submitted to the House for discussion, namely:

The need for a new Baby Care Payment so that families get timely financial assistance when their babies are born.

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

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

Ms MACKLIN (Jagajaga) (5.40 p.m.)—

It has been an extraordinary performance by the government today—a government that talk a lot about work and family but then go to extraordinary lengths in the parliament to avoid being questioned about their third-term record on work and family. I have never seen anything like it by a government. In fact, it seems a bit like the tables have been turned: we have an opposition out there setting out clear policies that are great for families, and a government that only want to play politics with national security. Things just are not what they should be.

I do not think that anyone would be surprised if the government's record did not stand up to any scrutiny—it certainly would not have stood up to scrutiny in question time—because, of course, they have no record. We have a lot of words from the Prime Minister—one minute he is in favour of paid maternity leave, the next minute he is not—but, of course, absolutely no action.

What a contrast with what Labor has presented today. Labor has presented, for the first time ever in Australia, a baby care payment for all Australian women who meet the means test. For the first time in Australia, Australian women will get the financial support that they really need when they have their babies. This is an extraordinarily exciting day for all the mothers who, for years,

have been looking for a political party prepared to recognise the enormous financial pressure that young families face and the need for mothers to be able to take time off work, recover from childbirth and be with their babies.

We also know that more and more families are under enormous financial pressure and especially so when they have a new baby. At last, if a Labor government is elected, there will be substantial financial assistance for all women: women who are working, women who are at home and women who move in and out of the work force. Women who need help when their babies are born will get it from a Labor government—but nothing, of course, from the other side.

Labor's baby care payment makes no distinction between mothers in the work force and mothers who are at home. We know that mothers move constantly these days between the work force and home. We know that policies that try to categorise women as either mothers at home or mothers in the work force are not helpful.

Mr Zahra—It is not real life.

Ms MACKLIN—That is exactly right. It is not real life. It will not be a surprise to anyone here that this government wants to have everyone conform to John Howard's 1950s idea of a family: one model of a family, where the mother is at home and the dad is at work. But of course that is not the way things are anymore. We know that families are under enormous pressure, especially at the time when their lives are so turned upside down by the arrival of a newborn baby. Everybody knows, even the government itself knows, that the government's last effort to do something about newborn babies—the failed baby bonus—was an enormous flop. We also know the enormous pressure the government's family payment system is putting on families, clawing back the

families, clawing back the payments they get and penalising mothers who do move in and out of the work force. By contrast, Labor's baby care payment is for all families. There are no penalties for moving in and out of the work force—and nor should there be. There should not be any penalties for different types of families.

I have to say that just about every mum I know wants to spend as much time as she possibly can with her baby when the baby is very small. Mums do not want to have to rush back to work before they have recovered their own health and before their baby has developed some sound sleeping and feeding routines. I imagine there are a few new mums here in the parliament tonight who would agree with that.

Opposition members interjecting—

Mr Latham—And dads.

Ms MACKLIN—Dads are obviously having trouble as well dealing with new sleeping routines. We want to make sure that all women are able to have this very special time with their baby. This should not be just for those who have managed to negotiate employer funded paid maternity leave. We know that more than 60 per cent of Australian women have no access to employer funded paid maternity leave, and we want to change that. The women who do not have access to employer funded paid maternity leave work on the factory floors, in cafes or as cleaners, hairdressers, receptionists, shop assistants—and so it goes on. The likelihood of those women who are in low-paid and casual jobs ever getting access to decent paid maternity leave without a Labor government is very slim indeed. Just like everybody else, they deserve to spend those very precious first few months with their babies and not face serious financial pressures. Those women deserve Labor's baby care payment. All these women will of course be treated

equally under Labor's baby care payment. It is a very simple payment, and it is fair—unlike the baby bonus, where the more you have, the more you get. That is, of course, this government's approach in life.

As I said, this is a milestone for Australian women—a great day for Australian mothers—because Labor's baby care payment will deliver our commitment to give Australian mothers 14 weeks of paid maternity leave. This is for all mothers, whether they are working or not working. From 1 July 2005, our simple and easy to access baby care payment will give mothers \$429 a fortnight for 14 weeks, tax free. That is \$3,000, tax free, on the birth of their child. That payment is going to be phased in over five years, delivering the equivalent of 14 weeks pay for people on the federal minimum wage after tax by 2010. So by 2010, when they have a baby, mothers, whether they are in the work force or at home, will be able to get a payment that is the equivalent of the federal minimum wage after tax—a wonderful achievement for Australian women. When that payment is fully implemented, that will mean it reaches \$5,380. It is a payment that recognises the important need to support families when their babies come along.

To maintain the value of the payment—we also know how important that is—we will index the payment to make sure that it keeps up with movements in the federal minimum wage. We will give families the option to take the payment either over 14 weeks or over a longer period of time. If families want to take it over 12 months then they will be able to do so. To make sure it is fair, we have means tested the payment according to the family tax benefit A rate. That means that all families with incomes up to \$85,702 will get the full payment and then the payment will be phased out using the same phase-out as the family tax benefit part A rate has, be-

cause we want to make sure families get assistance based on need.

Family income will be assessed at the time of birth. We do not want any of the mess that is associated with this government's family payment system, which is seeing so many difficulties imposed on families because of the way in which families organise their lives these days—going in and out of the work force, sometimes working more hours and sometimes fewer hours. We do not want any of that affecting our baby care payment, so we will assess the family's income at the time of the child's birth. The payment will be very easy to apply for, will be tax free and will assist parents, who need to plan financially for that critical first year of a baby's life.

By contrast, we know some of the details about the problems with the government's baby bonus scheme. In fact, 90 per cent of the mothers who qualified for the government's baby bonus received less than \$500. Under this government, 90 per cent of mothers got less than \$500. Under the Labor Party's plan for a baby care payment, 90 per cent of mothers will get \$3,000 in the first year. What an enormous difference with a future Labor government, who will really give enormous support to families when they really need it.

We have had the usual effort from the Treasurer, who has gone out this afternoon to find a hole in our costings—and a pretty poor effort it was on his behalf, I must say. He has tried to say that the savings from the phase-out of the baby bonus are not what we have said they are. I want to say to the Treasurer that the opposition is of course entitled to claim the amounts listed in the forward estimates of the Treasurer's own budget papers for what the government itself expects to spend on the baby bonus. But—surprise, surprise!—the government is not publishing

the next two years estimates for the baby bonus.

Mr Latham—Why not?

Ms MACKLIN—I wonder why that would be? I think it might be because the baby bonus is a complete and utter flop and the government does not want to let on that it is a total flop. Either it is a flop or it may be the case that the baby bonus is dead and nobody has been game enough to own up and tell the people who have so far been getting the baby bonus. I want to read into the *Hansard* a letter from Professor Peter McDonald, who actually checked the costings of Labor's baby bonus savings. I think this should put to rest any efforts by the Treasurer to make these claims. Peter McDonald said in his letter to me just recently:

In reference to the document Balancing Work and Family, Labor's baby care payment, I have examined the costings and can confirm that the costs of the proposed baby care payment are an accurate estimate of the likely costs. The savings from the abolition of the existing maternity allowance are an accurate estimate of the likely savings.

Finally, and most importantly, he said:

The calculated savings from the abolition of the baby bonus, based on several approaches to its calculation, are conservative. In other words, the savings may well be somewhat larger in fact than those shown in the document. Overall, I consider the costings and the methodology used to obtain the costings are sound.

That should put to bed any further efforts by the Treasurer. I suggest to the Treasurer that he actually get serious about making policies that might help Australian families rather than playing politics.

We know that this Prime Minister's own work and family task force have criticised their own baby bonus because, as their own document said, the baby bonus assistance was not 'well timed'. They suggested it be redesigned so that it mimics the effect of a paid maternity leave scheme. The govern-

ment has had this advice from its own task force for some time. What has it done? Absolutely nothing. We know that the Prime Minister went out before the election in October 2001 and said that elections were not just about the record of government, they were about how well we balanced work and family life. He said that it was so important to millions of Australians and that it was going to be the biggest social debate of our time—a barbecue-stopper. How many times have we heard that expression?

We know that the Prime Minister has not delivered anything in relation to making sure that families get the assistance when they need it. The government have no solutions whatsoever to this very tough time in families' lives. What Australian families need is Labor's baby care payment. At last we have a government in waiting—a future Labor government—that knows how to support families when they really want that support. We know that no two families are the same. We know that it is very important to acknowledge that, even though no two families are the same, each and every one of those families needs financial support on that great occasion when a new baby comes into the family. We all know that the government's policies are not doing that. Labor is saying to the government: 'Get out of the way, because you clearly do not have any policies that are going to support families when they need it.' It is time that all families got a helping hand from a future Labor government at the time when their baby is born. This is why families need Labor's baby care payment—a payment that will make all the difference to new families when their baby comes along. We look forward to having the opportunity to implement it. (*Time expired*)

Mr ANTHONY (Richmond—Minister for Children and Youth Affairs) (5.55 p.m.)—It is interesting to look at why Labor decided to launch their baby care policy to-

day. I think there are a number of critical questions: why today, where did it come from and how is it going to be paid for? The sudden release of this policy today is interesting. The only reason this policy was released today was to cause a massive distraction from the sheer embarrassment and inept policy handling of the ALP's position—and particularly that of the member for Werriwa, the leader of the ALP—on the withdrawal of troops from Iraq. There is no other reason why this policy of the baby care payment was released today. I can just imagine the tactics committee last night, after the sheer embarrassment of the House being misled on three occasions about the credibility and the trust of the Leader of the Opposition. In a desperate move to try to put more static and more confusion out there, they suddenly released this policy. It was released in a hastily organised media stunt today in Queanbeyan, with one of their candidates there. The release of the baby care policy was meant to be a distraction, a lifeline to the Leader of the Opposition to get him off the hook for his inept and inaccurate handling of the issue of the troops in Iraq.

He has been trapped by loose lips. If he picked up the paper of choice of the people in Werriwa or anywhere in Sydney he would see the headline: 'Latham trapped by his loose lips'. Of course, Labor went into damage control. They said: 'Let's put a diversion out there,' just like they tried to create a diversion the night before with ATSIIC. That was the only reason that the policy was suddenly released. They thought, 'We've got to try and confuse the public.' The critical issue of the element of trust and character in relation to national security was being questioned by the Australian public because the Leader of the Opposition had misled the House. One way to try to regain character, to regain trust, was to come back to his pet subject: children. There is nothing wrong with

that, but it is being used as a political football today to distract from his inept handling of the issue. We have witnessed that quite clearly on the numerous occasions when he has misled the House.

It was exactly the same case with ATSIC yesterday. There is no difference. I wonder what policy the Labor Party will run out tomorrow to try to create a diversion. I have to say that the gall is breathtaking. The Leader of the Opposition misled parliament. He is in a serious position in that his character, integrity and trustworthiness are being challenged because he has reconstructed and fabricated the events of not only the last couple of weeks but last year to do with the very sensitive issue of national security. Where did they come up with this idea for a baby care bonus? It is interesting to look at it. You would think that the member for Werriwa and the ALP would be very good at creating new policy. We know they are not. Basically, the ATSIC policy which they announced the other day is something which the government has been working through very thoroughly. I am sure there will be changes made later on.

The recommendations for this came from a work and family task force document. The member for Lilley has been scurrying around befriending public servants or perhaps looking in wheelie bins, and we find out that they have plagiarised the work and family task force recommendations. It was not so long ago that the member for Lilley was very proudly distributing a leaked work and family task force document to the press gallery, but he was not actually going to release it. He has been talking about working on this particular baby payment now for months and months. What a load of rubbish! Actually, they have probably been working on this for the last six weeks, since they illegally received a work and family task force document—since it was leaked to them. And we

in the government have looked at many different options.

The Leader of the Opposition says, 'We've been working on this for months.' I have to say that I reckon, in the last 48 hours, they were scrambling through the work and family task force document on the Google site. They are so slack that they could not even come up with a new name for their policy. It is actually called the baby care payment. I will not be tabling the cabinet in confidence baby care payment document, because the member for Lilley already has it. It is exactly the same: they have plagiarised from a work and family task force document and they have come up with this notion that it is new policy.

This is absolutely all about plagiarism. Again, it is about the issue of trust, integrity and character. It all started when the Leader of the Opposition, soon after he became the leader, talked about this 'ladder of opportunity'. We know where that came from: it was a direct quote that was used by his arch enemy, as he colourfully portrays the President of the United States, who copied it from President Reagan, who copied it from Winston Churchill. He is very good at plagiarism. I was interested to listen to him at the National Press Club not so long ago where he was talking about this crisis of masculinity and community empowerment, which is all interesting stuff. He was saying, 'We need to build stronger families to build better communities' as if it was a new revelation. Again, that is wonderful plagiarism. It was actually taken by John Winston Howard. That is our policy—stronger families and communities. But this is a new policy that he was going to pursue. He has plagiarised his *raison d'être*, which is his ladder of opportunity. That was copied. We know that the work and family policy was copied, just as he is trying to mimic the Prime Minister on ATSIC and, interestingly, we see it with this

announcement today. They had the gall to not even change the name.

You have to ask yourself why this sudden burst of new policy? It is pretty unusual. It is because he and the ALP know that the tactics and decisions that were made—and the Leader of the Opposition does not consult with his backbench on anything, particularly on national security—are being judged very harshly by the Australian public. We witnessed that today in the parliament, we witnessed it yesterday and I suggest that we will witness it tomorrow. And why shouldn't they be judged harshly when he has misled this parliament? He talks about integrity, truth and character, yet on the most important issue that anyone can talk about—that is, our national security—he is manipulating and reconstructing history, just as he tried to reconstruct history today with this particular baby care payment.

The federal Sex Discrimination Commissioner, Pru Goward, who I think we all have regard for because she says it as it is, says that the Labor maternity payment scheme is a start but it is not actually maternity leave. This is a welfare payment, not maternity leave. Interestingly, Labor have also decided to tie it to family tax benefits. There is some logic to that, because it is going to be means tested. It is strange, because the ALP have been bagging the family tax benefit policy since the day it was introduced—and the very element that the member for Lilley is given oxygen on is trying to discredit the family tax benefits system—yet this is the very system that they are going to be operating their baby bonus off. This is extraordinary. At one moment, Labor are prepared to bag it as a failed system; the next minute, they are quite happy to use it as the structure for their policy. That is interesting.

Again, what they say and what they do are two different things. If they are really inter-

ested in helping families with young children, they might try and pass the legislation which would give top-up payments to 35,000 families that deserve it. But here they are, twisting and turning. The government have dramatically increased payments in relation to the family tax benefits policy, which benefits 2 million adults and 3½ million children. Up to the last reconciliation in December, 72 per cent of people are either going to get paid more or their correct entitlement. We now know that Labor are going to be endorsing this policy and using it as a way of means testing for this new payment.

The critical issue is that we know why Labor put this policy out today: diversionary tactics. And, firstly, the central issue of any political party and their leader comes down to trust and integrity, and that is seriously under question. Secondly, we know that Labor have copied our policy. Thirdly, we know that they are going to fly off the family tax benefits system. Fourthly, you have to ask yourself how they are going to pay for it. How are they going to pay for this \$2.2 billion? They are going to rob from Peter to pay Paul. They are going to rob from Mary to pay Susan.

Labor are going to cut Medicare; they are going to cut the employer advocate; they are going to abolish general employment entitlements, the GEER scheme; they are going to abolish Invest Australia; they are going to axe ABARE and much more. This is the central crux of their argument today—whatever the merits of it are. How is it going to be funded? It is going to be funded by removing a substantial element in the latest Medicare package which, in particular, was a safety net providing \$300 to those who are concessional card holders or \$700 to those who are not concessional card holders or on some type of social security payment. They are going to rob from the family with one hand when it comes to their health and give it back

with another. This is just outrageous. I am surprised that they chose Medicare. If you are going to create a policy that will help families, there are many other elements you could choose, but you would not touch health. They will be reminded of this day in, day out until election day.

The other area which is extraordinary—and this I suppose shows the contempt of the Leader of the Opposition in particular and also of many other members of the Labor Party—is that they want to axe the Australian Bureau of Rural Science. They want to cut ABARE's budget by 25 per cent too. They do not care whatsoever about the welfare of Australian families that live in regional and rural Australia. ABARE, for instance, was the organisation that helped deliver and brought about the drought declarations. Here is an organisation that has swung into gear over the last couple of years to try and do some assessments to help struggling families and their kids, who are really doing it tough—and of course they wanted those drought declarations so they could get exceptional circumstances status. What is the Labor Party going to do? They say, 'That's okay, you can have your kids: we will give you some more money if you have babies, but we are not going to give you anything else, because we have actually shut down some of the departments that do that assessment.' That begs the question of what consultation there has been with the backbench. Absolutely none.

Mr Fitzgibbon—It is about a baby bonus.

Mr ANTHONY—This is how you are going to fund your baby bonus. You are going to fund it by cutting Medicare. You are going to fund it by getting rid of some of these agencies. Invest Australia is another good example. That organisation has created 28 new investments, leading to a total investment expenditure of just under \$300 mil-

lion in the last financial year: 1,900 jobs were created. Again, they are going to axe it. 'That's fine,' they say, 'we're going to pay the baby bonus, but we're actually going to axe an organisation that is trying to encourage employment.' Why do we try to encourage employment? Because we are trying to give families a head start and to create more opportunities. The best opportunity you can give families, of course, is to give them a job—to give them a job and a world-class Medicare system and to put in a safety net, which we have done; and, of course, to give them educational opportunities.

As for when it comes to a job, what are they going to do? When it comes to redundancy payments, they are actually going to get rid of them. This government was the one that introduced general employment entitlements particularly—and redundancy entitlements. The Labor Party never did that. They always talk about representing the worker, and yet they are going to cut that. After 13 years they never introduced it; we introduced it. They are going to introduce something which is virtually like a payroll tax. That is what they are going to do.

Interestingly, they talk about protecting entitlements, but they are not protecting entitlements at all. This is just about them finding a desperate way ahead last night—they cooked it up. They were in a jam: 'Our credibility has been damaged. How are we going to get this policy up? We are going to find a way of raiding the cookie jar in a few other areas so that we can at least justify our financial credibility.' The haste of this decision demonstrates whether there is an actual commitment to helping Australian families. Knowingly, they are going to take money out of Medicare; knowingly, they are going to abolish entitlement schemes; knowingly, they are going to disadvantage Australians living in rural communities. Interestingly, \$113 million to help fund the \$2.2 billion

will come from getting rid of the Office of the Employment Advocate. The Office of the Employment Advocate is the organisation that was recommended to be put in place because of the corruption within the building industry, particularly within the trade union movement. The opposition want to get rid of that office so that there can be greater unionisation—and we know that when there is greater unionisation there are more strikes, more families out of work and more kids disadvantaged.

I have to say that it is breathtaking today to see that the announcement of this particular policy has been done clearly to create a smokescreen. I think even the member for Hunter knows that. We know they are not consulting with their backbench. Interestingly, we see in a headline in the paper: ‘MPs demand Latham stop ignoring them.’ This is a constant pattern. Let us go through it again: there was the ATSIC announcement. That again is a policy area that we have been working on for many months to try and get greater accountability. The announcement today is an absolute fraud. *(Time expired)*

Ms BURKE (Chisholm) (6.10 p.m.)—What is breathtaking is the last 15 minutes of drivel from the minister, who could not even address the issue that was in his portfolio. He could not even talk about his government’s failure to act. They are the government. One of these days they should wake up and realise that. They have been the government now for quite a while. They should stop buck-passing and they should stop ignoring the families of Australia. Labor has been listening to Australian families, and we have been hearing them. We have been consulting with the people we represent. We are not just out there talking the talk; we are out there talking the talk and walking it as well. We have delivered the policy—the policy the Prime Minister has been talking about in vague terms now since the last election: he has

come up with nothing. That is what the minister should have addressed today: the failure of this government to actually do anything for struggling families. We know they are struggling, we know they are under the pump and we know they are stressed about how to get by, and so we are doing something about it. They are worried, and they are worried about how to give their children the best start in life.

These strains are particularly heavy when a newborn is on its way and when it arrives. While the birth of a child is the most joyous thing, it is also a very difficult time. It is a very difficult decision to make. Parents worry about whether they can afford to forgo one parent’s income—in most cases, the mother’s; in my case, the father’s—in those important first few months. Mothers worry about whether they are physically able to have this child: ‘Will I physically be able to breastfeed my child for at least six weeks—and in those first vital six weeks sometimes six, seven or eight times a day and sometimes six, seven or eight times a night as well—and then get up and go to work the next day?’ That is the pressure this lack of government action is actually putting on women. ‘Will my workplace support my decision to stay at home or will there be harsh consequences in the long run?’ These are the real-life things facing families today, particularly women. Women are choosing actually not to have children. They are summing these things up and saying, ‘It is all too hard and I am not doing it.’ We have seen that in our plummeting birth rates. We have seen that women are deciding that they do not want to risk being discriminated against in their workplaces and they are choosing not to sacrifice careers and incomes to have babies. The Prime Minister’s own cabinet report on work and family recognises this. It states:

Parents ... face an abrupt change in their finances in the period following the child’s arrival. Their

family income often falls substantially at the same time as they have to cope with the direct costs of having a child

That was in the report commissioned by the Prime Minister and then ignored by him and his cabinet. It is no wonder that in these pressurised times, one-third of working new mothers return to work less than 26 weeks after having their baby. This includes 12 per cent of employed new mothers who return to work after less than 13 weeks.

This is a sad and difficult reality for many new mothers and it is not good for their physical and mental health. Going through childbirth requires a period of physical recovery and respite. I can speak from the harsh reality of experience. I came back to work three weeks after my first child was born, and I came back to parliament after six weeks. I was back in this House with a brand-new baby when she was six weeks old, and it was insanity. I can say from personal experience that that was insanity.

Mr Fitzgibbon—There were lots of aunts and uncles, though.

Ms BURKE—There were lots of aunts and uncles. There was terrific, great support. I had my husband here, we were all together and my husband got to bond with our baby, but I was on another planet. I was so tired, I was so exhausted and I did not know what was going on. So I can tell you from bitter personal experience that you cannot do it—nor should you do it. We should not be forcing women in the work force to actually undertake that.

The second time around, when I was not in my first term in parliament, I actually saw the light. I looked at what the member for Lindsay had done in her first pregnancy, having three months off, and did the same thing. I timed it a bit better in the sitting patterns and came back when John was 12 weeks old. It was still pretty hard, but at least it was bet-

ter than being up here post my first child's birth, trying to breastfeed and trying to exist in this place and still function and sound like a rational human being with a six-week-old baby. Several of us on this side of the House know from bitter experience that you should not do it. For your own physical wellbeing and certainly for your child's wellbeing you should not do it.

The early weeks are also a period of transition, and many women find them emotionally challenging. This is often a period in which, if you overstress yourself, postnatal depression falls in. There is also the question of the importance of breastfeeding for women's health as protection against breast cancer, as well as for the child's health. This has been accepted by this government. It is government policy to encourage breastfeeding in accordance with World Health Organisation standards. Australian public health targets propose that up to 80 per cent of children should be partially breastfed up to six months of age. It is so beneficial for their good start in life, particularly in cases like mine where there are allergies in the family. It really ensures that you protect against allergies and asthma if you can last that first six months. If you can keep going for even longer, as some people do, good luck to you. But the government has ignored a measure—a baby care payment—which would support new mothers in being able to continue to breastfeed.

Many fathers are also losing out. They are being forced to work long hours in an attempt to compensate their family for the mother's loss of income. This denies many men their wish to spend more time bonding with their babies. So at a time when they have a brand-new baby at home and they would love to spend some time with it and would love to spend some time supporting their partners through that difficult stage, they cannot, because they are out earning a

lot more money. Even working in this place, where we earn a fairly good salary, in my household we certainly noticed when my husband's salary dropped. Even now that he is back part-time in the work force his entire salary goes on child care—we are actually in the negative with my husband working, because it all goes on child care. But you have to make these decisions. You make these life choices.

For all these reasons, our announcement today that we will introduce a new baby care payment is great news for families. Our payment will give parents some financial security so they can concentrate on their babies' wellbeing—and their own. The government has been talking about it and talking about it, dithering on, but it has done absolutely nothing. We are the ones accused of being a policy vacuum, but this government has done nothing. The Prime Minister said on radio back in July 2002:

The report is accurate in so far as it says that we are looking at a range of policies to assist families with children to better balance their work and family responsibilities. This is the biggest ongoing social debate of our time, I call it a barbeque stopper.

That was in July 2002. He trotted out another release in December 2003 and again talked the talk but did not walk the walk.

There is absolutely nothing this government has done to help, unlike the ALP, who have announced today—and not as any distraction, because most families are actually asking us to stop talking about Iraq and national security and to start talking about the things that are important to them—that all eligible mothers, in and out of the work force, will receive the payment. Unlike the government, which again and again reverts to the 1950s model of families by favouring mothers who stay at home, Labor believe in an environment which gives women a choice—a real choice—and does not dis-

criminate against any mother for the personal choices she makes. Our payment will give mothers in paid work the financial support to take time off work, while also lifting the financial burden on families with only one income coming in.

No matter whether a mother is in paid work or working at home, a new baby means a mountain of expenses. I can tell you from recent experience that that is true. For many Australian families on low incomes those expenses are too high and they have to face the heartbreaking choice of what to go without. No parent wants to feel that they have disadvantaged their child. Imagine choosing at the moment whether to spend \$500 on the pneumococcal vaccine or \$500 to clothe and feed your child. You tell me if that is reasonable. Families need balance and they need hope. They do not need any more false hope and rhetoric from this government. They need a Labor government, one that will provide support when it is needed—at the birth of a child—not some blithering \$500 maybe a couple of years later and at a level which is meaningful: \$3,000 will be meaningful. This is great news for Australian families, and it is only the Labor Party that will deliver it to them.

Ms LEY (Farrer) (6.20 p.m.)—The rights of women are not, unfortunately, the purpose of this exercise today. I have not detected opposite a genuine commitment to the needs of women. This serious policy issue, which is important to women at a critical time of their lives when they are having babies, has today been turned into a diversion, thrown into this parliament at about a day's notice to shield the opposition leader. As somebody who has been through all of the things the member for Chisholm has described, with my own three children—but I will not go into that today—I am quite disgusted that this has been used as a tactic on a day like this. On a day when the opposition wish to

surround the critical issue of national security with a fog of their own making, designed to obscure their muddling incompetence over the opposition leader's attitude to the troops in Iraq, they have rushed to release this policy. But I am happy to speak about it and about the important policy issues and the discussion that we should be having relating to families and the help that governments can and should give families.

I want to set on record what we have done. We have provided nearly \$6,000, on average, a year in family tax benefit payments to two million Australian families. We have cut effective marginal tax rates. We have spent more than \$8 billion on child care in the past six years. We have now funded 518,000 child-care places, and that is a real on-the-ground measure that makes it much easier for families to achieve the balance between work and family about which so many people speak. With the baby bonus, we have delivered an extra \$170 million into household budgets. Of course, Labor says that this is all going to higher income families, and that is just plain wrong—82 per cent of payments for the baby bonus goes to people with taxable incomes of \$20,000 or less a year. We have a maternity allowance of I think \$842 for a single birth and a maternity immunisation allowance. I have just outlined a comprehensive set of genuinely family friendly policies, whereas Labor has decided to increase the number of dollars aimed at only one area—the baby stage of life. The previous speaker mentioned \$3,000, but the payment actually rises to \$5,380 in 2009-10. Interestingly, if the opposition wins government at the next election, the measure will not come in straightaway. It will not come in until the 2006 financial year.

But let us take the proposition that more money is needed to help parents and that this is a genuinely good use of dollars for social policy. I ask the question: when do parents

really need help with their kids? There is a proposition that kids tend to get more expensive as they get older. We all know that teenagers cost a fortune. They want their own room, they attend parties and they go out with their friends, at great expense to their parents. School fees and particularly clothes cost a lot of money. Researchers at the University of Canberra have found that parents spend \$213 a week on their 15- to 17-year-olds—almost five times what they spend on children under five.

Generally I know that parents' incomes increase over the course of their careers, but this is not the case for families whose incomes are fairly stagnant over the course of their working lives. There is a strong argument that these families actually need help when their children are teenagers. I guess these are the families that Labor should be helping. These are the families that Labor claims as their own. But instead we see Labor putting more money into the baby stage of life.

Of course it is important to support parents of new babies. There are all sorts of reasons for this, one of the main ones being that one parent often gives up an income at that time. That is why we have put in place the extensive system of family payments that we have, but the question is: should we be increasing baby and maternity payments, in line with what we have heard from those opposite? Should we be paying \$5,380 for a birth in 2009-10 to someone who has a baby? Should we be taking money from other programs or uses and prescribing them for this specific purpose? If we need more money, should we be raising new taxes to pay for this? I see in the ALP's announcement of the measure today that the paperwork trumpets, almost gleefully, 'Labor's baby care payment will be funded by the Commonwealth government, thereby placing no financial costs on businesses.' Implicit in this statement is

the view that no-one has to worry about finding the money that the Commonwealth government gives out, because the Commonwealth just has money. So they are saying, 'Don't worry. We're not going to raise taxes from businesses, we're not going to get into that sticky argument with employers about funding employer paid maternity leave, because we, the Commonwealth, are going to pay.' And that is what you see in a lot of Labor policy and that is the problem. Because the government, as we know, do have to find the money from somewhere. They have to either cut existing programs or raise taxes.

Given that this is a Commonwealth payment, I would have expected the Australian Chamber of Commerce and Industry to be quite pleased about it, but they put out a media release just this afternoon and they are most unhappy. The media release is entitled, 'Unacceptable funding conditions on ALP baby care payment'. I thought, 'What has upset them about this?' Then I find that the funding basis announced by Labor means that Australian industry would still indirectly pay for this government benefit. One of the things that ACCI has said that it will cut is GEERS, under which we the government provide \$2.2 billion for employees who have been made redundant. Labor says, 'We'll take that \$2.2 billion to pay for the baby care payment, as well as the cuts we're going to make to the Medicare safety net to pay for the baby care payment. And, of course, we're going to put another levy in place on Australian employers, which is probably going to be a 0.1 per cent payroll tax on all Australian employers, to fund an employee entitlements redundancy scheme.' So it just makes no sense at all.

This money grabbing exercise from various different programs does not present a problem to the Labor Party. It probably does not present a problem if, in the end, taxes have to go up and borrowing has to go up.

But it does present a problem to us because, unlike Labor, we do not have a policy of tax, spend and interfere. We believe in keeping taxes low and allowing families to exercise choice in how they spend the extra in their pay packet. There are, of course, different philosophical points of view. Considered objectively, they are all valid. Whether you support them or not just depends on your own value system. But I do say that, if the Labor Party are going to decide for us what we do with our dollars, then maybe they should allocate them with greater care. If this is their social policy, why is it their social policy? Why are they making this particular policy? What makes this particular level of funding to this particular small group of families—at the stage when they are having babies—better than, say, a special payment to parents whose children are older or a special payment to poorer working families when their children become teenagers and put so much pressure on the family budget and on families generally? What about a special payment to parents who lose their jobs or who are recovering from long illnesses? Why this particular special payment? I say: do not add more dollars to our perfectly adequate set of payments just because it looks good, sounds good and supposedly resonates with the electorate.

There is another important reason for keeping taxes low—and this is a reason so often overlooked by those opposite. It is that lower taxes are vital for our economy. High corporate taxes drive business offshore, high individual taxes kill incentive. We need a tax system that pays for our health, education and defence and cares for our aged, but we need one that rewards effort and economic enterprise and keeps tax rates as low as possible. This government has a full suite of family payments and baby payments. As I have said, they include: maternity allowance, maternity immunisation allowance and the

baby bonus. They strike a reasonable balance between the need families have at this stage of their lives—when they lose one income so often—the need for taxes to be kept at a reasonable level and the need for society as a whole to be looked after.

Here we have a measure from the Labor Party that will ultimately put pressure on government spending and ultimately has the potential to increase taxes. That means more tax out of workers' wages and less money for their kids. If elected, the Labor Party will have the opportunity to increase taxes such as the GST, supported by nine state Labor governments. It will reduce the buying power of families. If we borrow money to fund this and similar exercises, interest rates will of course increase. What encouragement is that for our typical average family to add an extension to their home—borrow some money and build an extra room for the kids? I come back to where I started, which is that this MPI has been introduced into the House under a smokescreen. The subject deserves better discussion and a more bipartisan approach.

Mr ORGAN (Cunningham) (6.30 p.m.)—I welcome the opportunity to rise to support the member for Jagajaga's motion on the need for a new baby care payment so that families get timely financial assistance when their babies are born. We are here today to talk about baby care assistance and family assistance, not the launch of an ALP policy. This is a day when you would think that we were having an election next week. It has been a day full of electioneering rhetoric with little substance. The PM abandoned question time in order to waste—yes, waste—the precious time of this House on a motion attacking the Leader of the Opposition on a political stunt driven by the media.

Let us talk about the important issue of childbirth and supporting mothers and fami-

lies during this time. The opposition has today promised to scrap the government's current baby bonus and replace it with a new means tested baby care payment that would give new mothers up to \$5,380 by 2010. The opposition leader has said the payment would start at \$3,000 from July 2005 but would increase to \$5,380 by the time it was fully phased in five years later, assuming they win government.

The Sex Discrimination Commissioner, Pru Goward, has given Labor's baby care payment package a conditional thumbs-up. She said the baby care payment, as it stands, has essentially favoured women with high incomes. However, she has also pointed out that, while the proposal is a step in the right direction in providing more support for families, it does fall short of paid maternity leave. She said, 'It is not a minimum wage replacement for women and is means tested on the family income at the time of birth, which means it includes the partner's income.' In 2002, Ms Goward had recommended women get 14 weeks paid maternity leave at the federal minimum wage. She went on to say at that time, 'The proposed initial payment of \$3,000 falls far short of this,' and 'Let's hope this proposal is the beginning of a policy bidding war, not the high point.'

It should be remembered that Australia is one of the last developed countries in the world without a national scheme of paid maternity leave for new parents. Paid leave gives women time to recover from childbirth. We have heard in this debate the problems that women face during that period—before, during and after childbirth—and especially if they are working mothers. Paid leave gives women time to recover from childbirth, to breastfeed and to bond with their baby, while keeping their attachment to their work. It is good for women, babies, their families and the community in general, yet in Australia

fewer than four out of every 10 women have access to paid leave on the birth of a child. Most men have little or no special leave when their child is born. This is well short of international standards. In most OECD countries people have six months leave, and the United Kingdom has just extended its 18-week scheme to 26 weeks.

The Howard government says paid parental leave should be left to employees to arrange with their employer, but just 3.4 per cent of certified agreements contain paid leave, and certified agreements change over time, so this entitlement could be lost in future negotiations. Most Australians who have access to paid parental leave earn about \$40,000 a year, are highly skilled, professional workers, and are employed mostly in large organisations. At the University of Wollongong, we had access to such a scheme. This means that the people who most need help with the additional costs of having a child—that is, those on low to middle incomes and people working for small businesses—are missing out. This is unacceptable. Australia's national government needs to play a major role if working people are to have access to paid parental leave, irrespective of their industrial bargaining power.

The Australian Greens recognise the importance of caring work. People caring for others should be supported. The Greens have developed a paid parental leave scheme that includes 18 weeks of paid leave at replacement income up to average weekly earnings and no less than the federal minimum wage; a further 34 weeks of unpaid leave, with a right to return to work to the same or equivalent position, or to work part-time; payment to full-time, part-time, casual, seasonal, contract and self-employed workers who have been employed for 40 of the previous 52 weeks, or those who are not currently em-

ployed but have been employed for 52 of the previous 104 weeks; allowing partners to share the leave and making it available for adopting a child—it is becoming more common in our society that the partner has a real role to play in those immediate weeks following the birth of a child; employers paying superannuation for the period of paid leave and being encouraged to top-up wages of those earning above average weekly wages; and a review after three years, with the aim of extending paid leave to 26 weeks, as is being done in the UK, and unpaid leave to 18 months, providing a total of two years.

Independent costing for the Greens shows that this scheme could be funded immediately by scrapping the regressive baby bonus—which pays more to the wealthy than the needy—making family tax payments more equitable and providing savings from introducing a paid parental leave scheme. That means the Howard government has no more excuses for denying Australians a decent paid parental leave scheme. It is vital that Australia's scheme meets international standards and guidelines, and that it acknowledges paid parental leave as a work entitlement, not a welfare issue. Our policy is designed to replace income for the time a parent is caring for a newborn child or a newly adopted child. Paid parental leave should not be means tested, but the payment should be assessable for tax purposes, just like wages. In this way, those who most need the income will benefit most. In summary, the Greens will continue to fight for paid parental leave as we believe it is a fundamental right of working parents, especially women, to choose to take time to spend with their children when they are first born, and we acknowledge the importance of this issue.

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

BUSINESS**Rearrangement**

Mr ANDREWS (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (6.37 p.m.)—by leave—I move:

That order of the day No. 6, Government Business, be postponed until a later hour this day.

Question agreed to.

BUSINESS

Mr ANDREWS (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (6.38 p.m.)—I move:

That standing order 48A (adjournment and next meeting) and standing order 103 (new business) be suspended for the sitting on Thursday, 1 April 2004.

Question agreed to.

**COMMONWEALTH ELECTORAL
AMENDMENT (REPRESENTATION IN
THE HOUSE OF REPRESENTATIVES)
BILL 2004**

Report from Main Committee

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

Ordered that this bill be considered forthwith.

Bill agreed to.

Third Reading

Mr ANDREWS (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (6.39 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**LAW AND JUSTICE LEGISLATION
AMENDMENT BILL 2004**

Report from Main Committee

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

Ordered that this bill be considered forthwith.

Bill agreed to.

Third Reading

Mr ANDREWS (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (6.40 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

COMMITTEES**Public Accounts and Audit Committee****Report**

Mr CHARLES (La Trobe) (6.41 p.m.)—On behalf of the Joint Committee of Public Accounts and Audit, I present the following report: Report 398—*Review of Auditor-General's reports 2002-2003 fourth quarter*.

Ordered that the report be printed.

Mr CHARLES—by leave—The committee reviewed 34 Auditor-General's reports tabled during the fourth quarter of 2002-03 and selected three for further examination at public hearings. These were Audit report No. 42: Managing residential aged care accreditation; Audit report No. 51: Defence housing and relocation services; and Audit report No. 55: Goods and services tax: fraud prevention and control. In essence, the committee probed the operational efficiency and the maintenance of the integrity of three nationally important management systems: aged care accreditation; Australian Defence Force housing costs and availability; and goods and

services tax fraud control. Rather than discussing the committee's findings in great detail, I would like to highlight the significant observations that emerged from each of the three reviews.

Aged care is increasingly important to an already sizeable and ever-growing sector in the Australian community. Accreditation of aged care homes by the Aged Care Standards and Accreditation Agency seeks to underwrite the quality standards of those aged care facilities. The aged care accreditation system experienced some early teething problems. Although accreditation of residential aged care facilities was established in 1997, the Aged Care Standards and Accreditation Agency could not commence audits until the gazettal of principles in September 1999. This left the agency with a severe time constraint which contributed to inefficiencies and to inconsistencies in judgments and decisions during the first round of accreditations. The committee notes, however, that many of the early problems associated with maintaining accreditation standards, deriving from the peaking of the agency's workload around three-year accreditation cycles, are now being resolved. The committee is satisfied that an acceptable level of consistency was achieved during the second cycle of accreditation, which is now complete.

I remind the House that this inquiry was not about the quality of aged care per se, but rather it was about monitoring systemic standards that would deliver quality improvements in aged care homes. Although evidence showed that clinical quality improvements have ensued, the committee sought to discover whether residents' quality of life had actually been enhanced since accreditation commenced. No witness could provide convincing evidence that it had. This is not to say that quality of life has not improved; it is just that no supporting data were proffered. Hence, the committee recommends that qual-

ity of life information be collected along with the clinical data for feeding into accreditation decisions. The committee is adamant though that there must be no additional costs incurred by aged care facilities in meeting these broader criteria. Nor should the accreditation process be more complicated.

I will now comment on the efficiency and cost-effectiveness of the agreement between the Department of Defence and the Defence Housing Authority—an independent commercial entity established to manage the provision of housing and relocation services to Australian Defence Force personnel. The committee notes that housing classification inflexibility has meant that Australian Defence Force housing demand is not always being matched cost-effectively by commercial market supply. Review of the classifications may be necessary to resolve this issue.

The Defence Housing Authority Act 1987 requires three Defence Force personnel to sit on the Defence Housing Authority. This poses some potential for conflict of interest. I will explain my point this way. The Department of Defence negotiates with the Defence Housing Authority over housing contracts. It is conceivable, therefore, that Australian Defence Force members on the Defence Housing Authority may end up in the future having to negotiate with themselves.

The committee recommends that the requirement to have three Australian Defence Force personnel sit on the Defence Housing Authority be removed from the Defence Housing Authority Act 1987. To provide an alternative avenue for Australian Defence Force personnel to have a voice in strategic decisions affecting their housing, the committee recommends that the role of the existing Defence Domiciliary Group be expanded to include a formal consultation function with the Defence Housing Authority.

I turn now to the third review, which undoubtedly has potentially broader consequences—that is, GST fraud control. The committee recognises how fundamentally important it is to have the nation's taxation system operate free of fraudulent behaviour. This point was reinforced by the Australian Taxation Office officials who acknowledged at the hearing that containing goods and services tax fraud indeed poses a significant challenge for the Australian Taxation Office. The committee is pleased to note that Australia's goods and services tax system compares favourably with systems of similar type used overseas. This is, in the main, due to thorough preparatory research by the Australian Taxation Office of relevant international value added tax regimes. So the system is good.

The committee found, however, that GST fraud remains a major tax revenue loss area. The committee is seriously concerned with not only the revenue loss but also the potentially destructive impact on taxpayers should any laxity by the authorities in pursuing tax dues connote a wrong signal to all taxpayers. GST fraud is prevalent in the cash economy but determining the magnitude of the cash economy has proved to be difficult. The committee endorses the efforts of the Australian Taxation Office to capture tax owing on cash transactions using a variety of tools. Australian business number registration and monitoring has been particularly successful.

To date, major fraud has been heavily targeted for investigation and prosecution. The committee is pleased that minor fraud is now increasingly being captured cost-effectively using tools such as a tax evasion hotline. In addition, digital systems are being employed to risk rate GST payers and by so doing prevent fraud before it happens. The Australian Taxation Office has also upgraded its non-compliance capability and is in the process of installing a new case management system

that will record and report on goods and services tax fraud.

The committee is concerned, however, that instances of 'borderline fraud' appear to be escaping prosecution because the relevant statutory definitions of 'fraud' are too stringent. The Australian Taxation Office is instead forced to handle this range of fraud administratively. To give the Commonwealth Director of Public Prosecutions greater clout to prosecute 'borderline fraud' successfully, the committee recommends that the proof of fraud be eased marginally through amendments to appropriate statutes.

In conclusion, I would like to express the committee's appreciation to those people from the several government agencies and private organisations who contributed to the reviews by preparing submissions and giving valuable evidence at public hearings. I also wish to thank the members of the committee, particularly my vice-chair, Ms Plibersek, for their time and dedication in the conduct of these inquiries. My thanks also extend to the committee secretariat. Mr Deputy Speaker, I commend the report to the House.

Treaties Committee Report

Dr SOUTHCOTT (Boothby) (6.50 p.m.)—On behalf of the Joint Standing Committee on Treaties, I present the committee's report entitled *Report 59: Treaties tabled in December 2003*, together with the minutes of proceedings and evidence received by the committee.

Ordered that the report be printed.

Dr SOUTHCOTT—by leave—On behalf of the Joint Standing Committee on Treaties, I present the committee's report entitled *Report 59: Treaties tabled in December 2003: Marriage documentation—Italy; Withdrawal from the international foot and mouth disease vaccine bank; Maritime Pollution Convention (MARPOL 73/78) Annex VI—air*

pollution; UN Convention on Transnational Organised Crime, and two supplementary protocols on trafficking in persons and smuggling of migrants, together with the minutes and *Hansards* of proceedings.

The agreement between Australia and Italy on civil registry documentation will make it easier in future for Australians to get married in Italy, by being able to produce documents which are acceptable to the Italian authorities to notify that there are no impediments to the marriage taking place.

The proposed withdrawal from the International Foot and Mouth Disease Vaccine Bank supports Australia's concerns about the quality of vaccines available from the bank. After the advent of mad cow disease, it has been recognised by all parties to the agreement that new standards are required. Australia is in the process of making alternative arrangements, and all parties have agreed that the bank should be closed.

Annex VI to the maritime pollution convention deals with air pollution, recognised by the international shipping community as an emerging environmental issue. The convention will set standards for emissions of dangerous pollutants from ships, an area where there are currently no enforceable standards. The new standards have been supported by the maritime industry.

The final three proposed treaty actions considered in this report are the UN Convention against Transnational Organised Crime and two of its protocols concerning people-trafficking and people-smuggling. Transnational crime is of major concern to many countries in the world today and the committee agrees that, by being party to this convention, Australia demonstrates its ongoing commitment to combating it. The transnational organised crime convention will provide a standardised approach to criminalisation and a mechanism for cooperation with a

range of other countries in the prevention, detection and prosecution of transnational crime.

Similarly, adherence to the two protocols on people-smuggling and people-trafficking will demonstrate the importance Australia places on combating these repugnant, degrading crimes and set an example in the hope that all countries will proceed to address these serious issues. These protocols enhance the bilateral and regional cooperation Australia already has in the areas of people-smuggling and people-trafficking. In conclusion, it is the view of the committee that it is in the interests of Australia for all treaties considered in report 59 to be ratified and the committee has made its recommendations accordingly. I commend the report to the House.

Mr WILKIE (Swan) (6.53 p.m.)—by leave—I support the comments made by the member opposite in support of ratification of these particular treaties. I would just like to make a few comments, particularly in relation to chapter 5 of the report, which deals with UN Convention against Transnational Organised Crime and two associated protocols regarding people-trafficking and people-smuggling. As the chair has stated, the committee considers that this convention and its protocols will help to standardise the approach to criminalisation and provide a mechanism for cooperation with a range of other countries in the prevention, detection and prosecution of transnational crime as well as enhance the bilateral and regional cooperation we already have in the areas of people-smuggling and people-trafficking.

In relation to people-smuggling, I note that, in the report in paragraph 5.13, page 30, article 11 refers to prosecution, adjudication and sanctions. In particular, if a state party considered that another party was not complying with its obligations under the conven-

tion—for example, if it was not committed to prosecuting alleged criminals—that issue could be raised under the dispute resolution procedures of the convention if a reservation had not been lodged which excluded the party from dispute resolution provisions. The committee notes that the Attorney-General's Department has noted that this would be unlikely, as it would normally be resolved through diplomatic channels. Paragraph 5.13 on page 30 of the report talks about this whole issue of whether we would prosecute people who were caught people-smuggling. We are advised by the Attorney-General's Department, however, that this course of action in terms of dispute would be unlikely in general, particularly in light of Australia's disposition towards people-smuggling, and the penalties that we have in place. I think paragraph 5.13 and 5.14 also refer to this.

I was very concerned, having heard that from the department, given that, although we are now moving towards ratifying this protocol and being party to it, we have on two occasions recently actually caught people involved in people-smuggling and instead of prosecuting them we have turned their boats around and sent them back. Of particular concern was the recent arrival at Melville Island, off Darwin. We actually caught the people who were involved in people-smuggling—we had their boat and we had the evidence of the people they were smuggling—and, instead of prosecuting those people, we turned them around and sent them back. More recently, at Ashmore Reef, we had some people who had been deposited on the reef. We caught them and, instead of dealing with them, interviewing them and finding out if they were part of a people-smuggling racket, we also returned those people to Indonesia.

Clearly, if we ratify and go down the path of following this protocol, every time we catch someone that we know is involved in

people-smuggling activities and return them, we are in breach of our own treaty action. I would just like to bring this to the attention of the government. It is fine to have all the rhetoric in the world about how we are tough on people smugglers and how we are ratifying these protocols to make it even tougher and deal with this issue internationally. But if, in fact, we are catching these people, turning them around and sending them back, we are sending a very poor signal to the world and to the people smugglers that it does not really matter what we have ratified or what laws we have in place—even though you may be looking at penalties of up to 20 years, when we catch you, all we are going to do is turn you around and send you on your way so that you can try again and hopefully next time not get caught. I just hope that the government will take this into consideration and ensure that, having gone down the path of ratification, when we catch people, they are prosecuted.

Dr SOUTHCOTT (Boothby) (6.58 p.m.)—I seek leave to move a motion in relation to the report.

Leave granted.

Dr SOUTHCOTT—I move:

That the House take note of the report.

I seek leave to continue my remarks when the debate is resumed.

Leave granted; debate adjourned.

Public Works Committee

Reference

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (6.59 p.m.)—I move:

That, in accordance with the provisions of the Public Works Committee Act 1969, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Provision of facilities for Headquarters Joint Operations Command, NSW.

The Department of Defence proposes to construct a co-located operational level Headquarters Joint Operations Command at the Woodlands property near Bungendore, New South Wales. This project was previously known as the new Headquarters Australian Theatre. In December 1995 the then Minister for Defence approved new command arrangements for the Australian Defence Force which included the establishment of Commander Australian Theatre and Headquarters Australian Theatre. An interim headquarters facility, with a commander and joint staff, was established at HMAS *Kuttabul* at Potts Point, New South Wales, in 1996.

On 16 March this year, the Minister for Defence announced new Defence Force Command arrangements with the setting up of the Joint Operations Command to provide simpler and more direct command and control for Australian Defence Force operations. One outcome of the revised command arrangements has been the renaming of Headquarters Australian Theatre to Headquarters Joint Operations Command. The current interim headquarters arrangement impacts significantly on the ability of all commanders and their respective staff to support the Chief of Joint Operations in the planning and conduct of campaigns, operations, support for the civilian community and other activities. The objective of this proposal is to provide a permanent operational level headquarters for the Australian Defence Force which will collocate the Canberra based Chief of Joint Operations and Strategic Operations Division and the Sydney based Deputy Chief of Joint Operations and joint staff, the component commanders and their staff, the Joint Operations Intelligence Centre and Headquarters 1st Joint Movement Group.

Headquarters Joint Operations Command is critical to the ability of the Australian Defence Force to conduct concurrently a range of war-fighting and peacekeeping humanitar-

ian operations and support to the civil community and to synchronise military and non-military efforts to meet national objectives. The major advantage of collocation is enhanced operational effectiveness compared with the current dispersed configuration, facilitating superior decision making and increased operational effectiveness.

Following a review of three general site options—in the south-west of Sydney in the Holsworthy area; in Newcastle at the Royal Australian Air Force base at Williamtown; and in the Canberra-Queanbeyan area—the government announced on 18 July 2001 that the site for the new headquarters would be in the Queanbeyan area. Publicly, I would like to recognise the very strong representations of the member for Eden-Monaro with respect to the location of the headquarters in the Queanbeyan area.

The Prime Minister announced on 3 October 2001 that the headquarters would be built within the Woodlands property. The headquarters will be a low-rise military facility within a secure fenced compound comprising two areas. The inner area will accommodate a two- to three-storey building that will be surrounded by a person- and vehicle-proof fence providing pedestrian access only. Ancillary buildings, messes and concession air areas, partner services, car parking and fitness facilities will be located in the outer area. The main headquarters building will accommodate personnel in a combination of a standard office environment and specialised operations areas. It will consist of a high security inner area and an outer area of lower security office space.

The provision of command control communications and information systems is a key component in delivering effective theatre-level command and control. Commanders and their respective staff will have access to standard and specialised Defence communi-

cations networks and new capabilities will be provided to enhance situational awareness and support collaborative planning. Communications with deployed forces will be via already established Defence communications facilities.

Access to the headquarters will be provided along a dual lane sealed road from the Kings Highway which will be owned and maintained by Defence. It will be fenced to curtail stock movements, and a dedicated intersection at the Kings Highway will facilitate safe access to the facilities. A secondary road will provide alternative access for emergency services. The building and infrastructure, ongoing maintenance and ancillary support services component will be procured under private financing arrangements, provided that tenders demonstrate value for money.

A traditional, or direct, procurement strategy will be used to acquire and install the command, control, communications and information systems component of the project. The estimated out-turn cost of the proposed works is \$318.08 million at 2003-04 prices. This includes the provision of preliminary engineering studies, design, professional fees, construction of the buildings and infrastructure, acquisition and installation of the command, control, communication and information systems, and acquisition and workplace relocation costs. Subject to parliamentary approval, construction is planned to commence in mid-2005 and be completed by late 2007.

This particular project is situated near Bungendore in the electorate of Eden-Monaro. The member for Eden-Monaro has been a very strong and public supporter of this project and his constituents can be sure that they are well served by his representations in this particular area. I commend the motion to the House.

Mr NAIRN (Eden-Monaro) (7.05 p.m.)— I will speak briefly to support this reference to the Joint Standing Committee on Public Works, and I thank the Parliamentary Secretary to the Minister for Finance and Administration for his kind words during his speech on this motion. As he said, this project was announced back in 2001. It is a project that will see 1,000 personnel working out of these joint headquarters when operational in late 2007. That is a significant increase to the work force of our region. When you consider that most of those jobs are currently in other parts of Australia—Sydney, the Blue Mountains, Newcastle and various other places—they will all be new jobs to the region. This will obviously mean quite an expanded work force for the region, with a flow-on effect in economic activity in a variety of ways. The 250-odd jobs during the construction period are in themselves a substantial amount of economic activity for our region. In fact, this project will be the largest capital works project for this region since new Parliament House was constructed and completed in the late eighties.

Mr Slipper—And all because of you.

Mr NAIRN—I thank the parliamentary secretary, but it is not all because of me. Certainly, I have been very pleased to support this project right from the very beginning, from when I knew various locations were being considered. The parliamentary secretary commented that the cost now is estimated to be in excess of \$300 million—\$318-odd million—and that sort of injection into our local economy will be superb. But, with respect to this project, it is really the flow-on benefits I want to comment on. As this project will be constructed between Queanbeyan and Bungendore, Queanbeyan will become a very suitable area for people to reside. Considering that Defence personnel are likely to be working not only out there but possibly at Russell and other De-

fence establishments in Canberra, Queanbeyan will be well situated between the various Defence sites for people to consider from a living point of view. That is why it is critical that Queanbeyan is allowed to further expand. I think the ACT government was trying to keep most of the development within the ACT borders, but we certainly need to see further expansion in the Queanbeyan area and part of achieving that is getting a few agreements with the ACT government—for instance, on the provision of water. That is something that the current Minister for Local Government, Territories and Roads, Senator Campbell, is addressing.

The draft EIS for this project was completed towards the end of last year. It was a very extensive environmental impact study process, and it went out on public exhibition for quite a number of weeks and submissions were put into that. The EIS did not raise any major problems, and those things that were raised can be addressed within the development of the project. One particular matter which I am pleased that Defence is working very closely on is the Molonglo radio telescope, which is about five kilometres away. It is a great facility; it does some superb research work. Certainly, there is no intention to interfere with that particular facility, and Defence are working very closely with the Molonglo radio telescope people to ensure the construction is done in such a way that there is not any radio interference to that research facility.

I understand that shortly a report with the finalisation of the environmental impact statement will be going to the minister. A couple of weeks ago, cabinet approved a tender process for this project. The first stage of the tender is the registration of interest, and that is occurring this week. Advertisements are appearing this week in national newspapers for registrations of interest from consor-

tia to tender for the financing, design, construction and maintaining of this facility. Probably by about the middle of this year, selected tenderers will then be asked to tender formally for the project, with a successful tenderer being selected towards the end of this year, probably in October or November.

It is all good news. It is a great project and it will be a huge boost. This major facility, which will be located between Queanbeyan and Bungendore, gives us great opportunities to attract other defence industries into the Queanbeyan region. I find that really exciting because we already have a number of defence industries located in the Canberra region and, in fact, in the Queanbeyan region as well. We are all part of the same market so this whole region is going to benefit from this project, not just the constituents and businesses in my electorate of Eden-Monaro—certainly the ACT area will benefit substantially from this project as well.

But it is disturbing that right from the very first day that this project was announced back in 2001, the Labor Party have tried to pour cold water on it. They were equivocal about whether they really supported it going in this location. At the time, the shadow spokesperson for defence, Steve Martin, told the Newcastle mayor that if they won government in 2001 they would relook at the whole thing and consider it going up near Newcastle. From day one, they have never really had their mind on it or been fully behind it. It is about 2½ years since that first announcement was made. It is a \$300 million project—it is a huge project—and you do not get that going overnight. All the initial work, the EIS process et cetera, had to be done. The other day when we announced that the tender process had been approved by cabinet, it was incredibly disturbing to see the various Labor people question it and question the timing. They said: ‘Why has it taken so

long? This next part of it is obviously being announced now because it's an election year.' They obviously have no idea how a major project like this actually comes together.

The state member for Monaro in particular criticised the 2½ years it has taken. At the same time, he has been trying to get a \$30 million upgrade of Queanbeyan Hospital done and it will take in excess of two years from their announcement to even get a plan together—and that is a tenth the size of this project. But he expected that we should have had this all wrapped up and done within a couple of years. It is quite staggering, really. Those sorts of comments tend to suggest that they really do not support it.

There was even criticism that it was going to private finance, from one Labor person. He actually said that this meant that there was no government commitment to the project and that there would not be the benefits in the region because the government would not be spending money during the construction side of it. You have to stop and wonder at the mentality of a comment that suggests that public money creates jobs and things but private money does not. Those 250 construction jobs will be there irrespective of whether it is done through the Australian government budget or through the private financing tendering process. The same economic activity happens.

The good thing from the Commonwealth's point of view is that we take some of the risk out of it by going that way. A private consortium would tender with respect to the financing, the design and the construction, and the Commonwealth—that is, the taxpayer—would not have to start paying until they move in and start paying the rent. So all those sorts of comments further indicate that the opposition really do not support this particular project. Only a Howard government

will build this project at the selected site between Queanbeyan and Bungendore.

Question agreed to.

PARLIAMENTARY ZONE

Approval of Proposal

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (7.15 p.m.)—On behalf of the Parliamentary Secretary to the Minister for Transport and Regional Services, I move:

That, in accordance with section 5 of the Parliament Act 1974, the House approves the following proposal for works in the Parliamentary Zone which was presented to the House on 23 March 2004, namely: Extension of approval for the temporary vehicle barriers around Parliament House to remain until 31 March 2005.

The Presiding Officers have recently considered a number of recommendations dealing with security issues affecting Parliament House. One of these issues includes the replacement of the existing temporary vehicle barrier with a permanent arrangement. Design development of a system to replace the temporary vehicle barrier is being developed by the Department of Parliamentary Services using MGT Canberra Architects and Mr Romaldo Giurgola, the original architect of Parliament House. The design is being developed in consultation with the National Capital Authority.

The Department of Parliamentary Services is committed to giving the highest priority to the replacement of the existing temporary vehicle barrier with a permanent arrangement. Providing that a suitable design can be developed and agreed and appropriate funding is made available, it is planned to have the permanent arrangement in place by 31 March 2005.

This motion proposes an extension of time for the existing temporary vehicle barrier until 31 March next year. Under section 5 of the Parliament Act 1974, the Presiding Offi-

cers are responsible for works within the parliamentary precincts, and the Minister for Local Government, Territories and Roads is responsible for other works in the parliamentary zone. Accordingly, this motion is moved on behalf of the Speaker and the President. There are no costs associated with the proposal to extend the approval. The National Capital Authority has given works approval, and I commend the motion to the House.

Question agreed to.

ENERGY GRANTS (CLEANER FUELS) SCHEME BILL 2003

Consideration of Senate Message

Bill returned from the Senate with amendments.

Ordered that the amendments be considered forthwith.

Senate's amendments—

- (1) Page 2 (after line 3), after clause 2, insert:

2A Object

The object of this Act is to establish a scheme for the provision of grants such as the following:

- (a) grants to fully offset any excise duty or customs duty payable in relation to the manufacture or importation of biodiesel for which a provisional entitlement arises during the period starting on 18 September 2003 and ending on 30 June 2011;
- (b) grants to partially offset any excise duty or customs duty payable in relation to the manufacture or importation of biodiesel, CNG, ethanol, LNG, LPG or methanol for which a provisional entitlement arises during a transition period starting on 1 July 2011 and ending on 30 June 2015;
- (c) grants to encourage the manufacture and importation of low sulphur fuels.

- (2) Clause 4, page 2 (line 21), after “biodiesel”, insert “, CNG, ethanol, LNG, LPG or methanol”.

- (3) Clause 4, page 2 (after line 24), after the definition of *cleaner fuel*, insert:

CNG means compressed natural gas:

- (a) for use as fuel in an internal combustion engine; and
- (b) complying with the applicable fuel standard for such fuel.

- (4) Clause 4, page 2 (after line 25), after the definition of *consume or finally sell the fuel*, insert:

end day means:

- (a) for biodiesel, CNG, ethanol, LNG, LPG or methanol—30 June 2015; or
- (b) for each other cleaner fuel—the day prescribed by the regulations as the end day for that cleaner fuel.

- (5) Clause 4, page 3 (after line 8), after the definition of *enter the fuel*, insert:

ethanol means denatured ethanol:

- (a) for use as fuel in an internal combustion engine; and
- (b) complying with the applicable fuel standard for such fuel.

excise duty rate, for a cleaner fuel, means the excise duty rate:

- (a) applicable to the cleaner fuel; and
- (b) set out in the Schedule to the *Excise Tariff Act 1921*.

- (6) Clause 4, page 3 (after line 26), after the definition of *licensed person*, insert:

LNG means liquefied natural gas:

- (a) for use as fuel in an internal combustion engine; and
- (b) complying with the applicable fuel standard for such fuel.

LPG means liquefied petroleum gas:

- (a) for use as fuel in an internal combustion engine; and
- (b) complying with the applicable fuel standard for such fuel.

- (7) Clause 4, page 3 (after line 28), after the definition of *manufacture*, insert:
methanol means methanol:
 (a) for use as fuel in an internal combustion engine; and
 (b) complying with the applicable fuel standard for such fuel.
offset rate is defined in subsection 8(1).
- (8) Clause 4, page 3 (after line 33), after paragraph (a) of the definition of *start day*, insert:
 (aa) for CNG, ethanol, LNG, LPG or methanol—1 July 2011; or
- (9) Clause 5, page 5 (lines 23 to 25), omit “day prescribed by the regulations as the last day that provisional entitlements can arise for the fuel”, substitute “fuel’s end day”.
- (10) Clause 8, page 7 (lines 23 and 24), omit subclause (1), substitute:
 (1) If you are entitled to a cleaner fuel grant for a quantity of biodiesel, CNG, ethanol, LNG, LPG or methanol, the amount of your grant is worked out in accordance with the regulations by reference to the rate (the *offset rate*) set out in the following table.

The offset rate for certain cleaner fuels			
Item	If the fuel is:	And the fuel’s qualifying time happens during this period:	The fuel’s offset rate is:
1	Biodiesel	The period: (a) starting at the start of biodiesel’s start day; and (b) ending at the end of 30 June 2011.	100% of biodiesel’s excise duty rate.
2	Biodiesel, CNG, ethanol, LNG, LPG or methanol	The period: (a) starting at the start of 1 July 2011; and (b) ending at the end of 30 June 2012.	80% of the fuel’s excise duty rate.
3	Biodiesel, CNG, ethanol, LNG, LPG or methanol	The period: (a) starting at the start of 1 July 2012; and (b) ending at the end of 30 June 2013.	60% of the fuel’s excise duty rate.
4	Biodiesel, CNG, ethanol, LNG, LPG or methanol	The period: (a) starting at the start of 1 July 2013; and (b) ending at the end of 30 June 2014.	40% of the fuel’s excise duty rate.
5	Biodiesel, CNG, ethanol, LNG, LPG or methanol	The period: (a) starting at the start of 1 July 2014; and (b) ending at the end of 30 June 2015.	20% of the fuel’s excise duty rate.

(1A) If you are entitled to a cleaner fuel grant for a quantity of fuel not covered by subsection (1), the amount of your grant is worked out in accordance with the regulations.

- (11) Clause 8, page 7 (line 31), omit “Subsection (1) has”, substitute “Subsections (1) and (1A) have”.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (7.18 p.m.)—I move:

That the amendments be agreed to.

The [Energy Grants \(Cleaner Fuels\) Scheme Bill 2003](#) and the [Energy Grants \(Cleaner Fuels\) Scheme \(Consequential Amendments\) Bill 2003](#) establish the Energy Grants (Cleaner Fuels) Scheme that provides for payment of a cleaner fuel grant to importers and manufacturers of cleaner fuels. The Energy Grants (Cleaner Fuels) Scheme gives effect to two measures in the 2003-04

budget. The first of these relates to fuel tax reform and the second to the cleaner fuels component of the Energy Grants Credits Scheme in line with the Measures for a Better Environment commitment to encourage conversion from the dirtiest fuels to the most appropriate and cleanest fuels.

Under the provisions of the Energy Grants (Cleaner Fuels) Scheme Bill 2003, an entity will be entitled to a cleaner fuel grant if it imports or manufactures cleaner fuels. These reforms are part of the long-term reform by the government of existing fuel tax arrangements. The reforms establish a broad, sustainable taxation framework for fuels by addressing a number of anomalies in the current fuel tax system and providing increased long-term certainty for investors and providing time for industry to adjust.

The Energy Grants (Cleaner Fuels) Scheme (Consequential Amendments) Bill brings the administration of the Energy Grants (Cleaner Fuels) Scheme under the administrative and compliance framework of the Product Grants and Benefits Administration Act 2000. This aligns the administration of the scheme with that of the other payment schemes administered by the Australian Taxation Office. The Energy Grants (Cleaner Fuels) Scheme will apply from 18 September 2003.

The Senate amendments will provide a longer excise-free period for alternative fuels, including biodiesel, ethanol, liquefied petroleum gas, compressed natural gas, liquefied natural gas and methanol, which will provide greater certainty for industry players and a longer period for adjustment into an excise-paying environment. These long-term reforms will establish a fairer and more transparent fuel tax excise system, with improved competitive neutrality between fuels, and the timing strikes a balance between desirable fuel tax reform and the appropriate

period of adjustment for affected industries. The Senate amendments extend the excise-free period on currently untaxed fuels by three years and define the cleaner fuels for which grants will be payable as biodiesel, ethanol, compressed natural gas, liquefied natural gas, methanol and liquefied petroleum gas.

Under the amendments, grants will be payable to fully offset excise and customs duty imposed on biodiesel from 18 September 2003 until 30 June 2011. Grants will also be paid to partially offset any excise or customs duty imposed on biodiesel, ethanol, compressed natural gas, liquefied natural gas, methanol and liquefied petroleum gas for a period of four years from 1 July 2011 to 30 June 2015.

The grants will reduce in five even annual instalments from 1 July 2011 to 1 July 2015, raising the effective rate for each fuel from zero before 1 July 2011 to the final rate from 1 July 2015. This will provide greater certainty for industry and a longer period for adjustment into an excise-paying environment. The timing strikes a balance between desirable fuel tax reform and the appropriate period of adjustment for affected industries. The extension of the excise-free period will give confidence to industry proponents, who argued that the original five-year excise-free period was not sufficient time to properly establish new alternative fuel plants, particularly biofuel plants. These amendments are accepted by the government and I commend them to the House.

Mr FITZGIBBON (Hunter) (7.23 p.m.)—I am not surprised that the parliamentary secretary has indicated that the government will be accepting the amendments, because indeed they are government amendments, which makes them quite unusual in themselves. We did not really need a repeat explanation of the purposes of the **Energy**

Grants (Cleaner Fuels) Scheme Bill 2003 from the parliamentary secretary. I certainly will not be repeating it in the limited time I have available to me now. I can indicate that the opposition supported the government amendments in the Senate and therefore we will be giving our concurrence here in the House of Representatives.

As the parliamentary secretary indicated, this is quite a far-reaching bill, dealing with a number of fuel issues, but the key change which is given effect by the amendments is the pushing out of the phase-in period by another three years. I want to quickly give the House a bit of history here. Hitherto, fuels like LPG, ethanol and biofuels have been untaxed in this country. This bill initially sought to introduce a taxation regime on those fuels from the year 2008. I will not go back into the history of the original zero excise rating and its replacement by a production subsidy because of a Brazilian shipment, because I do not have time for that now.

In the budget last year the Treasurer announced that from 2008 these fuels would be taxed. He informed the House on that occasion that they would be taxed based on their energy content. That was the recommendation of the Trebeck report. What the Treasurer did not do on budget night was to provide detail as to what the tax rates would be. That caused a big problem for the LPG industry at the time. Not only was LPG being taxed for the second time—because with the introduction of the GST it had a tax imposed on it for the first time—but it was attracting, in effect, an excise for the first time. That was bad enough, but what made it worse for the LPG industry in particular was that the government did not provide rates, leaving it hanging in an atmosphere of great uncertainty.

We know that if the government were to have imposed a tax on excise on LPG and

ethanol based on energy content we would have ended up with tax rates for LPG, for example, of around 25c a litre. That is fairly high and is approaching the 38c applied to unleaded fuel. There was a lot of angst over that and a great lobbying process was put into play. The LPG industry lobbied very hard. A lot of government backbenchers and members on our side were concerned about the impact of that tax on the LPG industry. Then—surprise, surprise—on 16 December 2003 the Prime Minister, who had intervened, announced that while these fuels would still be taxed on their energy content he would be discounting that by some 50 per cent. No explanation was given as to why he arrived at the figure of 50 per cent. It was an arbitrary figure, but it got him out of a very difficult political decision, particularly with respect to the LPG industry.

So the Treasurer was rolled. He indicated clearly in the budget that there would be a tax on LPG, ethanol and biofuels and that the tax rate would be determined by the energy content of those fuels. There was another upheaval on the back bench and another party room debate and the Prime Minister intervened and simply decided that the tax be energy content discounted by 50 per cent. That was the first occasion on this issue that the Treasurer was rolled.

The Labor Party gave support to the bill in the House, which gave effect to those budget changes. That was in November or December last year. The bill just disappeared after that. It went off to the Senate and we have not seen it again until this week. Why have we not seen it again until this week? Because there was another party room revolt. The ethanol industry lobbied and claimed that 2008 was too early a period in which to bring in the tax. (*Extension of time granted*) They argued that by the time they would have closed on their finance and built their plants

they would only be up and running in 2007 and would have very limited time under the tax-free status before the tax came in. So there was another party room revolt. There was a lot of pressure from the government backbench, particularly from National Party backbenchers. The amendment in the Senate—I think it was today—was again a manifestation of that party room revolt. It was another backflip, another case of the Treasurer being rolled. The announcement now, in the amendments before the House, is that the tax on these fuels will not be introduced after all in 2008. It will now be pushed out to 2011.

As I said, the Labor Party supported these amendments in the Senate. We are supporting them now in the House. We are doing so, I have to say, without prejudice to our own policy-making processes. The industry will know exactly where the Labor Party stand on these issues prior to the next election. But, given the procrastination by the government, we were not prepared to hold this bill up any further particularly, as it goes to some very important clean fuels arrangements in the low-sulphur fuel area. So we are supporting it today but we will leave our options open in the future. The opposition support the ethanol industry. We think it has a solid role to play in regional Australia. We think it has a role to play in creating jobs and offsetting important dependency. It has a role to play in the environment. We want to be assured that it is an industry that is able to stand on its own two feet.

Debate interrupted; adjournment proposed and negated

The DEPUTY SPEAKER (Hon. I.R. Causley)—The question is that the amendments be agreed to.

Question agreed to.

ADJOURNMENT

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (7.30 p.m.)—I move:

That the House do now adjourn.

Education: TAFE

Mr ADAMS (Lyons) (7.30 p.m.)—Tonight I want to talk about TAFE. I want to talk about TAFE because it seems to be the poor cousin in all the education discussions being held at the moment. It is always mentioned in passing and not as an issue at the heart of further education. Further to discussions I had with some TAFE people today, I agree with their sentiments that vocational education and training are essential ingredients of lifelong learning, as are skills acquisition and the capacity of individuals to become active citizens in a democratic society. For most of you, TAFE is the vocational education system.

There are 1.7 million students undertaking vocational education and training in Australia, which is more than 10 per cent of all working age Australians. Of those students, 1.3 million are in TAFE. The thing about TAFE is that it provides for all ages and all socio-economic groups. It is entry-level training for young people, it provides further training for older workers and it gives a second chance and a recurrent education for socially and economically disadvantaged people. The advantages are that TAFE is accessible to a large number of people because TAFE can run courses through all sorts of other centres. It is able to engage with local communities. It has a close connection with industry and it is inclusive and has a commitment to quality. TAFE is also poised at the intersection of schools, higher education and adult community education and industry.

TAFE students include those who study part-time: 90 per cent; those who are in apprenticeships and traineeships: 15 per cent;

those in rural and remote areas, for whom TAFE is an ideal training format: about 30.9 per cent; and Aboriginal and Torres Strait Islanders, for whom TAFE has been a good vehicle to get skills: 3.3 per cent. It plays a very important role in Tasmania, because we now have many country schools that developed vocational education and training that link in with TAFE.

I would like to see more things done. Tasmania has some very original courses that, at the moment, are not accessed by Tasmanian students because of the cost. One is the Shipwrights Point School of Wooden Boat Building, which is a stunning course that enables those who can pay to undertake building a boat from the bottom up. The end product of this course is some of the most beautiful and effective craft ever made. Just today, I heard that they have another 20 people signed up to build boats, which is becoming a problem for them because they are running out of space. I believe there would be a very useful nexus to be created with this organisation that would allow students to undertake the course and become skilled to help lots of people build boats all over Tasmania.

The other fascinating course being offered, which is once again an end product of the timber industry, is the fine furniture school in Launceston which allows students to design and build original furniture but also gives them opportunities to create replicas of past furniture glories—both useful in this day of people hunting for something a little different. Just before Christmas, there was an exhibition in Launceston that showcased some of the year's work. The items fascinated me. Most were wooden clocks based on an original design that is centuries old, one of which is still housed in Salisbury Cathedral in England. These pieces are the most beautiful and mesmerising pieces I have ever seen. Using Tasmanian timbers, cogs and bits

are intricately formed to create a perfectly working clock. They look more like intricate sculptures, but they are the most incredible clocks. These pieces are worth between \$20,000 and \$35,000, depending on the size.

That, to me, is a very practical outcome to a skill that many Tasmanian youngsters could perfect if they got access to training. They can do this through TAFE. I believe that TAFE has a vital role to play in re-skilling our society as technological change moves on at the pace it is going. We need to be more upfront with the new courses and skills as well as retaining some of the old ones. I will be seeking greater concentration of funding for TAFE with all its programs, because it has potential for even greater things than it does today.

Sri Lanka: Elections

Mr RANDALL (Canning) (7.35 p.m.)—

In a disturbing speech to House of Representatives by the member for Lowe on 23 March this year, he made some inaccurate and inflammatory inferences. These inaccurate and misleading inferences have a particular resonance because, this Friday, the people of Sri Lanka go to the polls in a general election. The disturbing part of the member for Lowe's adjournment speech stated: Unfortunately, due to a conflict between the President, who holds executive power, and the Prime Minister, the President dismissed parliament in February of this year and Sri Lanka will face general elections on 2 April 2004. It is vital that these elections are free and fair. It is particularly important that the Tamil people of the north-east, who have been deprived of their franchise during the last two decades, are permitted to cast their votes at the forthcoming elections.

As the chair of the Australian parliamentary friendship group, I have closely examined the tenor of the member's speech. This matter has also been brought to my attention by members of the official and wider Sri Lankan community. The member's assertion

that a general election has been called by the Sri Lankan President due to a conflict with the Sri Lankan Prime Minister is very much disputed. The reality is that the President of Sri Lanka took her measure all but early to seek a fresh mandate from the people on a number of vital issues to the nation. National security, abolition of the executive presidency, costs of living and unemployment were just some of the pressing issues cited by the President. So why was the member referring to a personal, private or political conflict between the President and the Prime Minister of Sri Lanka? He is grossly incorrect to make such an allegation.

The member for Lowe's other incorrect statement is that the Tamil people of the north coast have been deprived of their voting franchise during the past two decades to vote in elections. The fact is that the Sri Lankan government since 1988 have taken all measures to see that the Tamil population, particularly in the north and eastern regions, have been given every opportunity to vote in all elections, be they general elections, provincial or local elections. It is in fact the terrorist group, the Liberation Tigers of Tamil Eelam—LTTE—who have taken every measure to stop the local members of the Tamil community voting.

Since the Norwegian sponsored ceasefire agreement between the government of Sri Lanka and the LTTE in February 2002, the torment, torture and assassination of non-LTTE Tamils and Tamil leaders under the guise of political work conferred on the LTTE since the ceasefire have continued unabated. The LTTE may be abiding by the ceasefire and not engaged in civil war, but they have taken the opportunity to further isolate and eliminate opponents of their stated goal of an independent Tamil state within Sri Lanka. For example, the Tigers continue to violate both human rights instruments and the CFA by forced conscrip-

tion of children. This can be confirmed by such bodies as Amnesty International and UNICEF.

In the context of the coming national elections, a number of alarming developments have occurred. Candidates in the forthcoming elections, MPs and officials opposed to the LTTE have been shot, wounded or killed in an effort to scare them from electoral involvement or to just simply eliminate them. Added to the unstable situation with the Tamil Tigers is a new problem in that the eastern commander of the LTTE, Colonel Karuna, has split from the northern alliance with the Tigers. This creates a further dangerous and unstable movement in Sri Lanka's political environment.

By way of background, there is much more that could be outlined in this tinderbox of Sri Lankan politics. For this very reason, it is rather irresponsible for the member for Lowe to blame the President of Sri Lanka for calling early elections due to her conflict with the opposition Prime Minister. It is also dangerous for the member for Lowe to claim that the Tamils in the north and east have been denied their legitimate vote for decades due to the Sri Lankan government. If the member for Lowe wishes to be an apologist for a prescribed terrorist organisation in the form of the LTTE, then he is on very dangerous ground. In his adjournment speech, he exposed his motives for such allegations. Very simply, he admitted that there are large numbers of Tamils in his electorate. By suggesting that his constituents were concerned about the Tamils' right to vote, he exposed his position that he is endorsing the position of those Tamils who accuse the Sri Lankan government of not allowing them to vote. The people who advocate this position are not the majority of Tamils but the Tamil Tiger movement or the LTTE. This is a servile act for the Tamil extremists in his electorate. This is not the position of the majority of Sri

Lankan people or the Sri Lankan government.

The member for Lowe is not a member of the Sri Lankan Parliamentary Friendship Group but many of his Labor colleagues are. This further illustrates his narrow and partisan focus on the Sri Lankan issue. I trust this Friday's Sri Lankan elections will be non-violent and democratic. As for the member for Lowe, his adjournment debate will be seen for what it is: a sordid and obsequious grab for the extremist Tamil Tigers in his very marginal electorate.

Telstra: Privatisation

Ms KING (Ballarat) (7.39 p.m.)—Yesterday the Senate again rejected the further sale of Telstra. We on this side of the House remain steadfast in our opposition to the further sale of Telstra. If the Prime Minister now wants to use this bill as a double dissolution trigger, then I say bring it on. I will be ensuring that Liberal and National party support for the sale of Telstra becomes a key election issue in my electorate. It will become a key campaign issue because regional members on this side of the House have been listening to our electorates. We have been listening to them and they have told us that they do not want further privatisation of Telstra. Perhaps it is time for regional and rural members on the other side of the House—not that there are that many of them left—to actually listen to what their electorates are saying and refuse to bring this legislation into this place ever again.

Services in my electorate are still not up to scratch. Only yesterday we saw the figures released by the Australian Communications Authority that one in 10 Telstra network services experienced a fault last year. This is despite claims by the government saying that regional and rural telecommunications services are up to scratch. Recently, I visited a constituent of mine in Bacchus Marsh who

employs 10 people. He has had constant problems which are directly attributable to the state of the network in his area—a network that has deteriorated due to Telstra focusing on overseas acquisitions and media takeovers rather than investing in capital and maintaining the network. I must however congratulate Telstra Countrywide on responding to the problems once they were personally made aware of them. But there is much work to be done to fix this problem because the temporary fixes that have been going in have been going on for some time, and the major issue is the state of the network in and around the Lerderderg Gorge Road.

The issue of broadband is something that is really important to the people in my district, and I want to inform the House that, thanks to a joint initiative between the Mayor of Hepburn Shire Council, Councillor Warren Maloney, and me, the town of Creswick in my electorate is hopefully going to witness the roll-out of broadband shortly. Last month the mayor and I travelled to Creswick to launch the expression of interest survey for Creswick. Telstra has recently established an ADSL broadband demand register to gauge community demand for a roll-out of broadband Internet services. If we get 75 people to give an expression of interest for broadband, hopefully Telstra will listen to us and enable the local exchange for ADSL. Broadband is an important issue for the people in my electorate. It is not just about access to good quality and high speed Internet access, it is also about access to information for families, students and businesses. It will enable them to expand their learning opportunities and for businesses to grow in small country towns. We are looking at getting the expression of interest forms into Trentham, Miners Rest and Clunes so that all of these communities will be able to access broadband.

The Gordon community has already initiated a petition, and I hope that Telstra responds to their need for broadband. I have to say that I am not overly confident. What we have seen happening over the course of the last 12 months is a bit of a change in the way in which Telstra operates in relation to broadband. Rather than having a scheduled roll-out, which is what it was doing in relation to broadband, Telstra is now requiring communities such as Creswick and now Gordon to put in expressions of interest. Basically, those communities that signal interest and are able to show that they have demand will get access to broadband. Those who do not know about the expression of interest register or have not got members of parliament or local councillors who are organising those for them will potentially miss out.

I have a letter from Steve Price who met me at my mobile office in Gordon complaining about the process of the expression of interest register and his experience of it. He is saying that Telstra's roll-out of ADSL seems designed to frustrate its consumers. Not only was its change in policy regarding ADSL roll-out fairly poorly publicised, particularly for small communities, but the registration process has not been updated despite Gordon in particular getting 60 signatures on a petition to get ADSL. There seems to be no accountability for the process. Gordon residents have clearly indicated their interest in having access to the broadband, but it appears Telstra is not committed to its speedy delivery in this area. The reality is that the ADSL network is shoddy and unavailable in many regional and rural towns. Only around 1,000 of the 5,000-plus exchanges across the country are ADSL enabled. Only recently a Pacific Internet ACNielsen broadband barometer found that 55 per cent of metropolitan small businesses had broadband compared to only 20 per cent of non-metropolitan small businesses. In

fact, what we have seen in comparison to the latest OECD broadband table is that Australia has fallen to 20 out of 30 amongst OECD countries in terms of broadband take-up. Certainly the way in which the government has been determined to privatise Telstra does not leave me with any great confidence that we will see a mass roll-out of broadband across this country and access to broadband for small rural communities who are trying to grow their economies and grow their businesses—(*Time expired*)

Flinders Electorate: Somerville Secondary College

Mr HUNT (Flinders) (7.45 p.m.)—I rise on behalf of the residents and parents of the town of Somerville within my electorate of Flinders to condemn the decision—and the inaction—of the state government of Victoria, the Bracks government, not to complete the Somerville Secondary College in time for students to commence study in 2005. This decision has been conveyed to me in a letter received by the Somerville Secondary College steering group from the state government in the last couple of days. The letter from Ethel McAlpine, the General Manager of the School Resources Division in the department of education, says:

Construction of a new school of this type would normally take 10 to 12 months to complete. On this basis, it would appear unlikely that the college will be ready for commencement in 2005.

The people of Somerville have fought, worked, struggled, believed and won the fight to get the school built. That fight was won almost two years ago. It was a tremendous result for Somerville, which is in desperate need of a secondary college. It has a high number of children of secondary school age—well over 1,000—and yet this school is going to be delayed. The problems which have now finally been acknowledged by the state have been in existence for almost a year

and have been unaddressed. They and their local members have been asleep at the wheel. Normally I like to speak with generosity in this place, but it was promised to the people of Somerville that this school would begin next year, in 2005. Parents and students alike have suffered a terrible blow. As one parent, a member of the Somerville Secondary College steering committee, wrote to me:

It is very disappointing to read that the opening of the school will be delayed as feared. So many parents have made important decisions as to the placement of their children in schools for 2004 in anticipation of transferring them to the new school in 2005. This will no longer take place.

The parent goes on:

This is not just sour grapes from a disappointed community, but indicates the incompetence of the Bracks government and the education department system that, knowing that the school was to be built within a very tight time line, allowed themselves to be hijacked by a group who are not answerable to the government nor to the electorate.

What has happened is that the school has been delayed and the community has been given no notice, no warning and no preparation. Something which is fundamental to a growing, budding, emerging town such as Somerville has been taken away from them. But my view is very clear: the community are not powerless. We fought to prevent the Somerville Secondary College land being sold. After that we fought to ensure that there was a guarantee that the school would be built, and we won. In addition to that we have received \$2 million in promised federal funding. That funding will sit idle. I will personally guarantee that it will be delivered and that under no circumstances will it be taken away. Instead that funding sits idle as the state fails to build the school that it promised.

What action can we take as a community? There are three things that we can do. We can force the state to build the school. We

can force the state to build the Somerville Secondary College in time for the families of Somerville to have their children attend that school in 2005. Firstly, as a community we have to get together a strong and clear voice through petitions which we will be issuing to people in each of the areas of Somerville. I will be asking people to sign petitions to the Premier, saying, 'Build Somerville Secondary College now, Mr Bracks, in time for 2005.' Secondly, we must take the fight, the argument and the belief that this school is indispensable up to the state government. It is due for Somerville by 2005. Thirdly, if we have to, we should take the message to parliament. Let us walk on the state parliament if they will not get work under way and build the school. It is easily solved. Day after day the site sits empty, with nobody there. What has happened is a great blow to the people of Somerville, but I believe that if we work and struggle together and make the case we can ensure that the Somerville Secondary College is built by 2005. I make my commitment and I give my passion to ensuring that the school is built.

Holt Electorate: Cranbourne Information and Support Service

Mr BYRNE (Holt) (7.50 p.m.)—The Senate Standing Committee on Community Affairs, in a recent report looked at the issue of poverty. As I understand it, this was the first study of its kind in 30 years that investigated the disparate distribution of wealth in Australia. The concern was, effectively, that the level of poverty, long-term unemployment and financial burdens on families has increased, despite a growing and stable economy. One support agency that I would like to talk about that is in the firing line and dealing with the consequences of this is the Cranbourne Information and Support Service. It is a fantastic community based service in the city of Cranbourne—which has a population of about 35,000—which is deal-

ing with the consequences of this growing rise in poverty. It is experiencing those consequences because it is experiencing a significant jump in the number of individuals and families that are seeking its services and walking through its doors.

There are obviously a number of factors that contribute to this problem. It is a complex problem. The population of Cranbourne is obviously one of these factors. Cranbourne has a population of 35,000. In 10 years time it is going to have a population of 100,000. The population of Cranbourne is growing at a phenomenal rate. Currently there are something like 4,500 families in Cranbourne, Cranbourne North and Cranbourne West. Of those 4,500, roughly 3,200 are couples with dependants and 1,118 are single parents with dependent children. The city of Casey, in which the city of Cranbourne is based, has approximately 80 families per week that move into the area. Of those, approximately 60 are moving into the Cranbourne area. Yet not everyone that moves into Cranbourne is affluent. If you looked at Cranbourne and its rising population, you would anticipate an increase in net wealth, but what is actually happening is that the net wealth is not increasing, which means that there are a lot of people struggling and doing it very tough.

Cranbourne is a fantastic area. It has some significant local heritage. One particular centre—the botanical gardens—is an amazing facility. It is a native garden of some 200 hectares with native fauna and flora—flora in particular—that shows what Australia was like pre-settlement. It is a fantastic facility which has received a \$10 million grant from the state government, and which shows Australia as it was pre-settlement to Australians who come to the Cranbourne area.

Cranbourne is a great area, but what Cranbourne is experiencing, despite its incredible growth, is a lack of social infrastruc-

ture and support. In fact, it may surprise you, Mr Deputy Speaker, to learn that Cranbourne does not have a Medicare office. It has a population of 35,000 people, which will grow to 100,000 people in 10 years time. It is based in the City of Casey, and which has a population of 210,000 people which will grow to a population of 300,000 people in 10 years time—that is, a city the size of Canberra—yet it does not have a Medicare office.

Not only does Cranbourne not have a Medicare office; it is in the bizarre situation that, when people who live in Cranbourne—which is situated about 38 kilometres south-east of Melbourne—ring Melbourne, they have to pay an STD charge rate. This is an issue that the people of Cranbourne have had to deal with for far too long. I want to tell the people of Cranbourne tonight that I am going to take this issue up with Telstra. I have had informal conversations with Telstra about this particular issue, but the time for talking with Telstra is over. I issue this challenge to Telstra: unless they review their practice of charging STD rates to the people of Cranbourne, we will mount a petition and we will mount a campaign until they change their minds. This campaign will start from tonight. It has the enthusiastic support of the residents of Cranbourne.

The Cranbourne Information and Support Service is spending \$3,500 a month out of its own money, but it is only receiving \$11,000 from the federal government through its emergency relief funding program. Up to 14 people per day come through the service's doors. The service is being given only \$11,000 funding and it is spending \$35,000 of its own money. I call upon the federal government, given the great work that the Cranbourne Information and Support Service is providing, to supply the appropriate funding to the people of Cranbourne so that they

can get the service that they desperately need and deserve. (*Time expired*)

Ryan Electorate: Local Schools

Mr JOHNSON (Ryan) (7.55 p.m.)—On Tuesday, 16 March, I had the pleasure of dining with representatives from various schools in my electorate of Ryan. I had the opportunity of hosting the annual Ryan member's school principals dinner in my electorate. I want to read into *Hansard* the letter that I wrote to all my school principals, inviting them to join me for an evening of pleasant discussion and engagement on issues of education—something very important to me, as the federal member for Ryan, and of course also very important to them as stakeholders in our education system. I wrote:

Since my election in November 2001 as the Federal Member for Ryan, I have been determined to foster a close and pro-active working relationship with all our local schools in the Ryan electorate. As well as my regular visits to the 44 secondary schools spread throughout Ryan, I also had the opportunity last year of facilitating the *School Principals Round Table Discussion* with the Federal Minister for Education ... which many of you participated in.

... ..

Continuing my strong links with the local school community, it is my pleasure to invite you to the first *Ryan Member's Principals Dinner*. For the first time, this special initiative will provide principals collectively with the opportunity to discuss with their local Federal Member in a relaxing and friendly manner some of the vital issues on schooling and education more broadly. Naturally, principals will also have the chance to meet their colleagues from the Ryan electorate's forty-four local schools.

It was a very successful evening, where principals and P&C presidents and representatives of the schools were able not only to convey to me over dinner some of the concerns that they have and some of the interesting things that are happening in their schools

but also, importantly, to learn from each other. I was warmly congratulated by many of the principals who attended. I just want to take this opportunity in the parliament to mention the schools that had representatives come along. They were Kenmore South State School, Indooroopilly State High School, Hilder Road State School, Centenary State High School, Kenmore State Primary School, Moggill State School, The Gap State High School, St Aidan's Girls School, Toowong College, Brookfield State Primary School, Corinda State School, Fig Tree Pocket State School and Middle Park State School. I also had the opportunity of meeting with representatives from Indooroopilly State Primary School, The Glenleighden School, Chapel Hill State School, Oxley State School and The Gap State School.

This was a wonderful opportunity, as I said, to meet some of the principals, particularly the new ones. It was a very productive evening, that was very informative not only for me as the local federal member but also for the principals and the stakeholders. For example, Indooroopilly State High School had a new principal, and she was able to meet for the first time many of her colleagues. I want to welcome her again to the Ryan electorate and to the stewardship of Indooroopilly State High School, one of the superb schools in the Ryan electorate.

I am also very appreciative for the thanks that have come my way. I want to read into *Hansard* and to parliament the letter from the deputy principal of The Gap State High School, Mr Paul Brennan, who very kindly wrote to me as follows:

Dear Michael

I would like to express my appreciation for your invitation to attend the Ryan Member's Principals' Dinner on 16 March 2004.

The opportunity to discuss issues relating to education and schools with Senator Mason and Brandis—

who were also my guests at that dinner—

as well as the members of administration teams from schools in the Ryan Electorate is much appreciated.

Schools are facing numerous challenges and it is important that our politicians have an understanding of the challenges and issues that impact on our individual schools.

The discussions on funding, the training of teachers and the incentive schemes to encourage young people into teaching are issues that we as educators feel strongly about.

Your continued support for the young people in your electorate as well as your support for The Gap State High School is appreciated.

Yours faithfully

P Brennan

Deputy Principal

As I said, it was a very pleasant occasion and a very enjoyable evening. Again, I thank all those principals who came along and express my disappointment at the handful of Ryan school principals who chose not to come along for various reasons, some of which I found to be quite astounding—in particular, they did not want to have dinner with principals who came from both the primary and the high school sector. They preferred to have an exclusive gathering of their own. I think they did a tremendous disservice to themselves in missing out on the gain that they would have otherwise incurred. They also did a disservice to the students of their schools and the parents of the students who attend their schools. I look forward very much to having a strong working relationship with all the principals of the schools in the electorate of Ryan, which I have the great privilege of representing, and to working with them on some of the important issues in education facing our country. (*Time expired*)

The DEPUTY SPEAKER (Hon. I.R. Causley)—Order! It being 8 p.m., the debate is interrupted.

House adjourned at 8.00 p.m.

NOTICES

The following notices were given:

Mr Abbott to present a bill for an act to amend legislation relating to health, and for related purposes. (Health Legislation Amendment (Podiatric Surgery and Other Matters) Bill 2004)

Mr Ruddock to present a bill for an act to amend the Family Law Act 1975, and for related purposes. (Family Law Amendment Bill 2004)

Mr Andrews to present a bill for an act to amend the Occupational Health and Safety (Commonwealth Employment) Act 1991, and for related purposes. (Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill 2004)

Mr Hockey to present a bill for an act to establish Tourism Australia, and for related purposes. (Tourism Australia Bill 2004)

Mr Slipper to present a bill for an act to amend the law relating to elections and referendums, and for related purposes. (Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Bill 2004)

Mr Slipper to present a bill for an act to make further amendments of the law relating to elections and referendums, and for related purposes. (Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Bill 2004)

Mr Slipper to present a bill for an act to provide for the making of superannuation contributions in respect of members of Parliament, and for related purposes. (Parliamentary Superannuation Bill 2004)

Mr Slipper to present a bill for an act to amend the law relating to the superannuation and other entitlements of members of Parliament, and for related purposes. (Parlia-

mentary Superannuation and Other Entitlements Legislation Amendment Bill 2004)

Mrs Vale to present a bill for an act to provide for compensation payments in respect of veterans interned by North Korean military forces and to amend the Veterans' Entitlements Act 1986, and for related purposes. (Veterans' Entitlements (Clarke Review) Bill 2004)

Mrs De-Anne Kelly to move:

That, in accordance with section 5 of the Parliament Act 1974, the House approves the following proposal for works in the Parliamentary Zone which was presented to the House on 31 March 2004, namely: Centenary women's suffrage commemorative fountain in the Parliamentary Zone.

Mr Albanese to move:

That this House:

- (1) recognises that education is the foundation stone of opportunity for young people;
- (2) acknowledges that the education of students at Fort Street High School is severely disrupted by the impact of aircraft noise;
- (3) acknowledges that aircraft noise is not confined by lines on a map;
- (4) acknowledges that Fort Street High School, established in 1849, is New South Wales' oldest high school;
- (5) acknowledges that, as the main building was constructed in 1914 and the hall in 1927, aircraft noise filters directly into classrooms; and
- (6) calls upon the Government to immediately provide noise amelioration through insulation for buildings at Fort Street High School.

Mrs Irwin to move:

That this House:

- (1) notes that 1,800 stateless Vietnamese people have been stranded in the Philippines since 1989 without residency status and are therefore ineligible to work or hold any rights of citizenship;
- (2) commends the Australian Government for granting humanitarian visas in the past 4 years to 68 stateless Vietnamese families comprising 260 people who have parents, children or siblings in Australia;
- (3) notes that a further 201 stateless Vietnamese families comprising 648 people with relatives in Australia remain in the Philippines;
- (4) notes that the United Kingdom and the United States of America have accepted over 300 people and have indicated a willingness to accept additional stateless Vietnamese people; and
- (5) calls on the Government to compassionately consider granting humanitarian visas to the remaining stateless Vietnamese families with relatives in Australia.

Wednesday, 31 March 2004

The **DEPUTY SPEAKER (Hon. I.R. Causley)** took the chair at 9.42 a.m.

STATEMENTS BY MEMBERS

Agriculture: Apple Industry

Mr GAVAN O'CONNOR (Corio) (9.42 a.m.)—Today I present to the House a petition of 2,837 signatures that have been collected by Ms Sharon Bird, the Labor candidate for the federal seat of Cunningham. Sharon has concerns about the importation of apples from New Zealand, and this petition that I table today reflects the concerns of apple growers in that particular area of Australia. Ms Bird launched the petition on 27 February at the East Corrimal fruit market and has enlisted the support of fruit shop operators in collecting signatures for this very important petition.

The importation of apples from New Zealand will be allowed if the government adopts key recommendations of the revised draft import risk assessment for New Zealand apples, which was released on 19 February. Apple growers in Cunningham and around Australia remain concerned about the potential for imported apples to bring the devastating apple and pear disease fire blight into the country. AQIS has estimated that an outbreak could cost the Australian industry \$1 billion over five years.

The industry argues that the quarantine conditions recommended in this revised draft IRA may not be rigorous enough to keep fire blight out. There is also concern that growers and others have been given only 60 days to prepare a detailed scientific response to this 800-page report. I wrote to the chair of the Senate Rural and Regional Affairs and Transport Legislation Committee, urging him to reopen the inquiry, and I am pleased to note that the first hearing will take place today. I congratulate Sharon Bird on her initiative in putting together this petition on behalf of people in the Cunningham electorate.

I am also pleased to note that the government has bowed to pressure from the industry and has extended the period for consultation on the draft IRA for another 60 days. The government's original timetable would have meant that growers would have had to prepare their response to the draft IRA right in the middle of the harvest. It is vital that our apple and pear industry is not exposed to the risk of fire blight and that the industry is given time to adequately assess the effectiveness of the quarantine conditions contained in the IRA.

The issues surrounding the importation of apples from New Zealand were examined back in 2001 by a Senate committee which recommended a number of important improvements to the IRA process in general and this IRA in particular. In its June 2001 report, the Senate committee said:

The committee may revisit the matters dealt with in this report following publication of the final IRA.

That is now being done, and the opportunity is there for the industry to put their concerns to the Senate committee. I once again congratulate Sharon Bird for her great initiative on behalf of her community.

The petition read as follows—

To the Honourable Speaker and Members of the House of Representatives assembled in Parliament.

The Petition of certain citizens of Australia draws to the attention of the House.

MAIN COMMITTEE

We the undersigned object to the Federal Government's plan to allow New Zealand Apples into Australia.

We believe this will mean:

1. The spread of the apple disease FireBlight;
2. Farmers forced out of business because of the disease FireBlight.
3. Quarantine standards being lowered and our farmers sold out.

The undersigned petitioners therefore ask that you stop the import of New Zealand apples immediately and urges the Federal Government to reverse its decision.

from 2,837 citizens. (*Time expired*)

Fisher Electorate: Talara Primary College

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (9.45 a.m.)—I always take pleasure in talking about the very positive aspects of the Sunshine Coast community, and this morning in the Main Committee is no exception. One of the great things about the Sunshine Coast is its sense of community. This sense of community is developed in many different areas, including its schools—whether those schools happen to be run by the state government, churches or independent organisations.

I want to talk this morning of the Talara Primary College. I have been there so many times I have lost count. It is a government school in Currimundi. It opened in 1998 with Paula Anderson as the inaugural principal. The current principal, Stephen Adams, works very well with the parent body and the students. This school has done so well that they have had to draw geographic boundaries around the school to stop people from outside those boundaries trying to go to Talara Primary College, because the school has been swamped with people who are voting with their feet to seek an education at Talara Primary College. It is a wonderful school. Every child wears a uniform, the children are polite, the teachers work hard, and the parents provide tremendous support. The grounds are beautiful, and the reason they are so good is the way the whole school community works to make them even better.

I recently opened three new buildings, including a two-storey general learning block and two relocatable buildings, built at a cost of \$1,272,000, which included a federal government grant of \$1,263,000. The state Labor government provided only \$9,000 towards the cost of those particular facilities. At a time when state Labor governments around Australia are criticising the federal government for its funding of state schools, it is really good to see Talara Primary College having these new buildings opened so that they are able to provide an even better education to their students.

Since 1996 the Howard government has given more than \$165 million to schools in the Fisher electorate. I think one of the problems that the state government has is that it does not give government schools sufficient independence. If I were a state education minister—though I am never likely to hold that position—I would like to be able to work out what it costs to run a government school, make the principal the CEO, allow him to employ the teachers and allow the school community to spend the dollars in accordance with their values. In that way, the schools would be able to achieve better outcomes.

Talara Primary College is an outstanding school. I am particularly proud of it. We have many good government and non-government schools in the Fisher electorate. We have one of the fastest growing areas in Australia. The fact that this government has allowed freedom of

choice in education is positive. We have wonderful government and non-government schools. I commend Talara Primary College.

Lonergan, Mr Patrick Joseph

Mr SAWFORD (Port Adelaide) (9.48 a.m.)—Patrick Joseph Lonergan was a very good friend of mine. Unfortunately, he was killed this year on St Patrick's Day—which is a supreme irony—and I spoke at his memorial service last Wednesday. He was a much loved and highly respected member of the Port Adelaide Labor Party, and he will be sorely missed by the activists who he regularly met and worked with.

In Labor politics in Port Adelaide Paddy really put in: pre-polling, working on polling booths, letterboxing, stuffing envelopes, attending state council, attending state conventions, attending May Day celebrations, attending workers' memorial celebrations and attending and participating in the Port Adelaide FEC meetings as recently as 7 March. He always attended our meetings in Port Adelaide with good cheer, a kiss on the cheek for Secretary Pat Perry and—fortunately for us—winks and smiles for President Joe Capella, Treasurer Bob Collins and me. He enjoyed the company and he relished the participation, which was always positive.

When preselection difficulties were explored against myself in 1996, 1997 and last year, he offered the ultimate loyalty. No member of parliament can be more honoured than that. Quiet and cautious, he never spoke unless he had something to say. He was well known and loved as one of Port Adelaide's characters. PJ to some, Irish to others, the little leprechaun to himself, Paddy to most, he was an institution in Port Adelaide. He offered and gave help to others willingly and quietly. He held his pride inside him. He walked most mornings and afternoons. He was a very fit 78 years old. It is a tragedy that he was killed on his morning walk on St Patrick's Day in Port Adelaide by way of an accident involving two vehicles while he waited to cross the road. He knew every nook and cranny in Port Adelaide. He walked it, loved it, smelled it and cared about it. He was also part of the hotel and sporting culture in the Port. He will be sadly missed by the management, staff and patrons of the Port Anchor, Portland and Prince of Wales hotels as well as the Portland Football Club—formerly Riverside. He was the best goal and boundary umpire in South Australia according to the Riverside and Portland records. According to every other team, he was blind and never saw the goals go through the points.

He was of course a proud union man. He defended and worked diligently for fair and better conditions for working men and women and educational opportunities for their children. But it was in his relationships with others that you got to know the real Paddy. He was an astute judge of character. He summed everybody up and called it as he saw it. When he was annoyed by the actions of some in political or union affairs, he made his views known. But he held no grudges. He talked and acted positively, and when he did not he moved on. He was a gentleman, and a charming one at that. He loved and understood the Port humour. He was a wonderful friend to many in Port Adelaide in body and spirit. Some 500 people attended his memorial service. Knowing that he was being remembered next to the lighthouse, where he was a volunteer, would please him greatly, as would the interest of those there to see his name recorded forever on the Port Adelaide Workers Memorial. (*Time expired*)

Queensland: Brisbane City Council Elections

Mr JOHNSON (Ryan) (9.52 a.m.)—It is a pleasure to speak in the parliament today. I want to take this opportunity to speak on the Brisbane City Council elections held last Saturday, 27 March and to congratulate the new lord mayor-elect of the City of Brisbane, Campbell Newman, who ran a very strong campaign to defeat the incumbent Labor administration. The city budget for Brisbane City Council is bigger than the state budget of Tasmania, so it is a very important administration. The council has an enormous financial responsibility and a huge area geographically to look after, so it is important that the new council is able to work to deliver the best services for the people of Brisbane.

I want to echo some of the sentiments that I understand that Campbell Newman has referred to in the press, talking about the new direction for the council of which he is now mayor, and particularly his injunction to the staff of the council. He encouraged them very strongly to appreciate that there is now a new direction with a Liberal lord mayor and for them to work completely in the interests of the people of Brisbane. He made a very strong plea to them not to engage in politicking in the background, because that simply will not be tolerated. He said that it is the interests of the people of Brisbane that must come first. I support very strongly his call to the majority of council ward members, who are still Labor, and I encourage them to work with the new lord mayor, because first and foremost it is the people of Brisbane who count. The new mayor has a very strong mandate to administer the city on behalf of the people of Brisbane and, of course, all the wards that he represents through being the lord mayor.

I also take this opportunity to thank his wife, Lisa Newman, who has said that she will give up her job to support him very strongly and, in particular, to take a very strong community role. She has said that she will be very active in the community and engage in community activities and charities to bring people together and support worthy causes. I commend that very strongly, because in this country we probably do not have enough people in that position who can very strongly and genuinely give their time to worthy causes and charities. I take this opportunity to thank her. I also congratulate all the Liberal candidates who stood in the wards and made a tremendous contribution to the democratic process of the council elections. I particularly want to congratulate Norm Wyndham, who has taken the ward of McDowell very strongly. It was a very strong Labor ward, but he took it very successfully. (*Time expired*)

McMillan Electorate: Agriculture

Mr ZAHRA (McMillan) (9.55 a.m.)—The district of West Gippsland, around an hour and 15 minutes east of Melbourne, has some of the richest and most productive agricultural country in Australia. We are fortunate in the West Gippsland district to have a wide range of agricultural industries, and I want to bring some of the aspects associated with those industries in that region to the attention of the House today.

We have award-winning cheese manufacturers in the West Gippsland region. The Piano Hill cheese factory, the Jindivik cheese company and the Tarago River cheese company, which are north of Warragul, are amongst the best cheese manufacturers in Australia. They regularly win major awards and are important employers in the West Gippsland district. We also have Radfords Abattoir in Warragul, an important employer which has an excellent workplace relations culture and which has been doing more and more in the value-adding area

associated with the meat industry. It is an excellent company and an important part of the Warragul district, with a great focus on value adding.

Importantly, we also have Flavorite Hydroponic Tomatoes, who supply hydroponic tomatoes to Woolworths, Coles and Bi-Lo. They also supply their excellent product to Western Australia and Queensland. In fact, they have just made a substantial expansion of their business into Queensland. They are an excellent company and employ about 150 people. Mark Millis and Warren Nichol are to be congratulated on taking a business that in 1994 sold 80 tonnes of tomatoes worth \$240,000 and turning it into a business that in 2004 turns over in excess of \$20 million.

Flavorite Hydroponic Tomatoes are a great regional success story. They inject something like \$4 million in wages into the Warragul economy every year. They are a great local company, a great local success story, and I have been pleased to have been associated with the company over the course of the 5½-odd years I have served as a federal member of parliament. The shadow minister for agriculture, Gavan O'Connor, and I visited the company a few years back, and it was great to see that progress was being made then. We have seen a great deal of development there, which has culminated in them putting in place a new glasshouse. It is a very large glasshouse—one of the biggest in Australia—and a really great achievement for that company. So to Mark Millis and his team: congratulations. We think that your company is a great example of what you can do in rural and regional areas, and we hope that other companies follow your example and continue to provide great opportunities for people in the agricultural sector. (*Time expired*)

Education and Training: Apprenticeships

Mr FARMER (Macarthur) (9.58 a.m.)—In recent years there has been a decline in the number of young people taking up a trade. In fact, it is widely accepted that this country is headed for a trade skill shortage in coming years if something is not done. I was part of the House of Representatives Standing Committee on Education and Training, which on Monday released a report on vocational education and training in schools, *Learning to work*. We listened to employers, students, universities, trades, colleges and schools. The one thing that came out loud and clear was the need to better promote vocational education and training. There is a view that kids are selling themselves short by not going to university and that trades are second best. There is a public perception that any child who does not aspire to university is not aspiring high enough. I know from personal experience that this is simply wrong. University is not the be all and end all, and I want young people to know that these days a trade is more than just a pay cheque; it is a career path as well.

I am pleased to say that the Howard government wants young people to know this too. In fact, it has doubled the number of apprentices in training since it came to office in 1996. The coalition government is committed to apprentices. The Labor Party reckons that it stands for the average worker, yet it has no policy when it comes to apprentices and encouraging young people into trades. When Labor was last in office, the number of apprentices in training fell from 172,000 in 1990 to 135,000 in 1995.

My electorate reflects greater Western Sydney in that it has a work force that is reliant on trades and manufacturing. It is a very similar story across Western Sydney in electorates like Werriwa, which is just up the road from my electorate. You would think that the people representing these areas would be champions for the trades and that they would know about the

value of apprenticeships and of making them a high priority. You would expect people like the member for Werriwa, who professes to be a supporter of the working class, to be a champion for the trades; but he is not. In fact, he has barely mumbled a word about this since he came into this place. He has turned his back on tradespeople and apprentices and shown that he is somebody who simply does not care. In 10 years in this House, he has mentioned apprentices and apprenticeships only five times—that is right: five times in 10 years. In more than 530 speeches, this is the value that he places on trades and apprenticeships. His commitment comes down to less than a handful of speeches. It is a slap in the face for the tens of thousands of young people in Western Sydney who will rely on a trade for their livelihood.

The people of Western Sydney deserve better. They deserve somebody who knows their area, and they deserve a government that supports apprenticeships and trades—not a party whose leader preaches that it has working class roots and then turns his back on these people.

The DEPUTY SPEAKER (Hon. I.R. Causley)—Order! In accordance with standing order 275A the time for members' statements has concluded.

COMMONWEALTH ELECTORAL AMENDMENT (REPRESENTATION IN THE HOUSE OF REPRESENTATIVES) BILL 2004

Second Reading

Debate resumed from 24 March, on motion by **Mr McGauran**:

That this bill be now read a second time.

Mr SNOWDON (Lingiari) (10.01 a.m.)—By way of background, in February 2003 the Australian Electoral Commission determined that the Northern Territory was just 295 persons short of the population needed to retain its second House of Representatives seat. As members will know, this decision came as somewhat of a shock to me, although it was predicted by me after we had been awarded two seats in the prior redistribution. Because of the way in which the statistical information is gathered and used, it was quite conceivable that we would fall below the 1.5 quota that was required to retain two seats after the subsequent election, and that is what happened.

It also came as a shock to the people of the Northern Territory. The effect of their being 295 people short of the quota was to halve their representation in the House of Representatives. That led to a range of activities, but most of all it led to arguments by me and others that we should be given some sort of guarantee about a minimum number of seats for the Northern Territory. Indeed, I did prepare a piece of legislation which would have done this, but it quickly became apparent that that was not the way to effect a decent change in public policy which would provide for some sort of certainty around the issue of a determination of the Electoral Commission in terms of seats. This is very important, because we do not want a situation to emerge where the determinations of the Electoral Commission, based on data provided by the Australian Bureau of Statistics, are overturned because governments or oppositions do not like the result.

I have to say that I did not like the result, and we needed to do something about it, because it became very clear very quickly that there were huge flaws in the processes adopted by the Electoral Commission through using the data from the Bureau of Statistics. There were flaws and, I think, errors in the data which was used to bring about the result which brought us back to one seat. What happened was that the government, in its wisdom, after discussions with the

opposition, sent the matter off to the Joint Standing Committee on Electoral Matters for consideration.

I was fortunate enough to be able to make a submission to that joint standing committee, and I will come to the details of that submission shortly. Firstly, I want to point out that this is the third time that the government have attempted to draft legislation to meet the concerns which have been expressed. On the first two occasions they simply did not get it right, because they ignored the recommendations of the Joint Standing Committee on Electoral Matters—I notice that the chairman of that committee, the member for Kooyong, has come into the chamber, and I welcome him and thank him for his part in providing this report.

The government's first attempt came through a private member's bill from the member for Solomon. Effectively, this tried just to put in the fix for all time and not deal with the underlying problems associated with counting the Territory's population. My first reaction on hearing the result that we were going to lose the second seat was to have a similar view: that we needed to put in legislation that guaranteed a minimum number of seats. I developed a very logical, coherent and, I think, philosophically sound argument for that position, but I was dissuaded from it by weight of the arguments of others. It became very clear that, whilst there was a guaranteed minimum number of seats provided by the founding fathers, this was not going to wash in the 21st century and that what we needed to do was not distort the basis for additional representation in the federal parliament by ignoring the population figures. It also became clear that if we used the population data differently, if we actually analysed it and looked at the way in which it was being used by the Australian Bureau of Statistics, we would come up with a different position.

The government's second attempt was a variation on the first bill, but this time the government wanted to rewrite the Electoral Commissioner's determination and simply replace a '1' with a '2' for the number of seats for the Northern Territory. Thankfully, by then, the Joint Standing Committee on Electoral Matters had reported and had made three very practical recommendations to deal with the immediate problem and also how to handle the problem of making manageable population estimates for the territories into the future—as I said, third time lucky. Let me put on the record our support and the way in which we got a bipartisan position from the Joint Standing Committee on Electoral Matters for its recommendations which are now part of this legislation.

The bill before us now provides, firstly, that the statistics provided by the Australian Statistician for the purpose of making a determination are to be the most recent set of statistics in a regular series compiled and published by the Australian Statistician. This removes any ambiguity about which of the latest set of statistics is to be used. Secondly, when the Australian Capital Territory or the Northern Territory falls short of a quota for an additional seat and the shortfall is within an error margin, the Electoral Commissioner is to recalculate the entitlement. The error margin is to be added to the territory's population and the entitlement recalculated. Thirdly, the determination by the Electoral Commissioner on 19 February 2003, as it relates to the Northern Territory, is set aside. The determination made prior to the February 2003 determination, on 9 December 1999, is to apply to the Northern Territory at the next election. This will ensure that the Northern Territory has two seats in the 2004 election.

I think those recommendations provided a very constructive and creative way to overcome a problem which would have seen the representation of the Northern Territory halved in the

House of Representatives. Having been the member for the Northern Territory for a dozen or so years, I can say that I am much relieved. I loved representing the whole of the Northern Territory, but it is somewhat easier to represent half the population than the total population. Mind you, I had great difficulty with the way in which the electoral boundaries have been struck.

This is a separate matter, of course; nevertheless it is relevant for me in that I made a submission to the redistribution committee saying that I thought that the electorate should be roughly divided in half so that you had two electorates which were demographically and geographically similar, roughly 700,000 square kilometres in size. We now have two electorates: one which comprises Darwin and Palmerston—the city area—and the rest of the Northern Territory in the seat of Lingiari. To give you an order of magnitude, the seat of Solomon is now 330 square kilometres. The seat of Lingiari is 1.34 million square kilometres. So you might contemplate what I have contemplated: whilst it is somewhat easier to service half the population, in terms of the effort it is not a lot easier for me, simply because of the diversity of the electorate and its size. I think that is a little unreasonable. When we come back to consider redistribution I hope that the Labor Party submits a further request that the redistribution be done along the lines that I originally proposed.

Effectively, this bill allows for the calculations of entitlements to representation in the House of Representatives to take account of the significant margin of error in the Australian Bureau of Statistics population estimates for the Territory. What we got from JSCEM was a way forward, and I am pleased that the government has belatedly acted on its recommendations. The biggest issue for me has always been how the ABS developed its population figures. I have here my submission to the Joint Standing Committee on Electoral Matters and I have to say, without putting too fine a point on it, that the joint standing committee has taken up the concerns that I have expressed in the submission, which go to the question of the validity of the data and the methodology that were being used. The recommendations which the committee has come forward with endorse absolutely the submissions I made to the committee.

It is relevant to discuss just briefly a couple of the issues, as they will enlighten us on a number of things. The first issue is the appropriate use of statistics. The Northern Territory has a volatile population. However, the ABS's published population projections indicate that the Northern Territory population will increase relative to other states over the coming decades. These projections suggest that the Northern Territory will qualify for a second House of Representatives seat in both the near- and long-term future. You will recall, Mr Deputy Speaker Causley, that I was making this projection on the assumption that we might still be looking at one seat in the forthcoming election. The medium projection anticipated that the Northern Territory will have 1.55 lower house quotas by 2005 and 1.6 quotas by 2014. Since 1999 the ABS's ERP—that is, the estimated residential population figures—have been below the most conservative estimates of population growth. The accuracy of the population projections depends largely on the accuracy of the assumptions on which they are based. In the case of the Northern Territory the estimated residential population figures seem either to have been based on incorrect assumptions or to have failed to account for several key factors about population growth. As I said at the time, unless the ABS has substantially changed its methodology the inaccuracies will accompany the next set of population data.

Population projections are based primarily on rates of mortality and fertility and on international and interstate migration, moderated by past trends. In terms of volatility, interstate migration is likely to have the greatest impact on population projections for the Northern Territory, and that has clearly been the evidence over the last couple of years. The ABS population projections do not directly take into account predictions of future economic growth, for example, and the effects that it might have on interstate migration in particular.

Let me give you an example of that. At the moment there is a gas liquefaction plant being built in Darwin, which I understand employs around 1,000 people in the construction phase. Hopefully, in the near future we will see an announcement made by Alcan to double the size of its facility at Gove. The town of Gove has around three and a half thousand people. They anticipate requiring for this exercise an additional work force of 1,200 people. That immediately changes the migration rates into the Northern Territory and the population base. But the bureau's estimates do not foresee or allow for these changes in economic projections. The volatility of the Northern Territory population limits the ability to make accurate predictions of future population based on past population trends. In a small and relatively isolated population like the Northern Territory, large economic projects can have a substantial impact on the population.

The ABS is committed to providing statistics that are appropriate for the uses to which they will be put—that is, statistics that are fit for purposes under its charter. The commitment is provided in the ABS mission statement. I will not read it out, but it is very clear—it is just headed 'What we believe in: ABS principles'. The ABS released estimated residential population figures for September 2002 on 18 February 2003, two days before the release of the Electoral Commissioner's determination. The ABS was cognisant of the purpose of the data it supplied to the Electoral Commission, as it released these figures earlier than usual specifically to enable the Electoral Commissioner to use them in his determination. This shows in correspondence between the Australian Statistician and the Electoral Commissioner that was obtained then by Senator Trish Crossin from the Northern Territory. In contradiction of the ABS charter at the time, the Australian Statistician told the Senate Economics Legislation Committee at estimates on 5 June 2003:

It is the people who use these numbers for their purposes who make the judgment on the best statistics to use.

When questioned about whether there might be other statistics that would better fit the purposes of the February 2003 determination, the Australian Statistician did not answer. It is possible that there are other statistics that would qualify as the latest statistics for the Commonwealth and be more accurate measures of population.

One such set of statistics could be a rolling average over a number of quarters, and this was made clear in my submission to the Joint Standing Committee on Electoral Matters. Another such set of statistics could take into account the errors associated with population estimates—and this, I am happy to say, is what the JSCEM struck on. A number of questions to the ABS were placed on notice following the estimates committee hearings in June 2003. I am not sure what the conclusion was, but I am absolutely certain that the responses that were made reinforced the view we had expressed.

I will reiterate: the Northern Territory lost its second House of Representatives electoral division seat because of a very narrow shortfall in population—295 persons. What we need to

understand is that this was an order of magnitude smaller than the standard error rate associated with the September 2002 estimates of residential population figures for the Northern Territory and made those population data totally unsuitable for the Electoral Commissioner's February 2003 determination.

In the 2001 census—I know this is fairly complicated, but it is important—the net undercount found by the post-enumeration survey for the Northern Territory was found to be 7,814 people. The rate of undercount was four per cent, the largest for any state or territory, and had an associated error of 0.6 per cent, or plus or minus 1,172 persons. This means that one can be 95 per cent confident that the September 2002 estimated residential population figures for the NT lay within the range of 4,688 people, yet what we had was a determination based on the fact that we were short by 295 people. So it becomes obvious that, if you account for standard errors and use those standard errors as an indicator, you will quickly come to the position that I came to, that you need to go to the outside of the standard errors, not the inside. And that is in fact what we have seen recommended by the joint standing committee.

This error of course meant at the time that there was no statistically significant difference between the 1.5 quotas and the September 2002 ERP figures for the Northern Territory. As a result, there was no certainty as to whether the real population at the time was greater than, less than or the same as the 1.5 quota. It is possible—even likely—that the NT's real population in September 2002 was greater than the level that would be required to entitle the NT to two electorates. I am not going to go into further argument about that, but I do want to say that there has been a significant undercount historically of the Northern Territory population. There is now growing evidence that suggests that the ABS method of enumeration of remote Indigenous populations seriously underestimates the population. The ABS has admitted that enumerating Indigenous communities is difficult. However, it has shown to date, in my view, little interest in amending its data when there is clear evidence that it is flawed.

The Commonwealth funds various Indigenous health programs, based on figures from the Health Insurance Commission in recognition of the fact that the ABS data grossly underestimates Indigenous populations. HIC figures indicate the number of people resident in a region for the purposes of the delivery of health care services. These figures provide a dynamic record of a population, as the record is updated each time a person enters a clinic. I will give you an example. HIC records show that at the time of this submission there were 3,123 people in the Katherine west district—which is an area roughly the size of Victoria—whereas the ABS estimated that the figure was only 2,868.

Similarly, the ABS estimated that there were 2,000 people on the Tiwi Islands, whereas at the time the Tiwi Health Board estimated that there were 2,300 people on the islands. There were also claims of serious discrepancies in the population data from Wadeye, or Port Keats. Wadeye census data showed a 31 per cent discrepancy when compared with data from the health clinic. It is very clear on that basis that the information which was being used by the bureau was unsatisfactory. Not only were they using data which was unsatisfactory, but they were not using the latest published data available and they were not accounting for error margins.

I have stressed—and I believe it is true—that there is a significant undercount of population in the Northern Territory. I understand that it is difficult for the bureau. However, when decisions such as this are being contemplated, it is extremely important that the information

which is used is accurate. The JSCEM recommended—and it is now supported by the government—that the margin of error used by the Australian Bureau of Statistics, which would have been 1.2 per cent of the Northern Territory, be included in the margin of error that the Australian Electoral Commission uses in its future calculation. The bill is therefore a way forward for the Territory representation. Most importantly, it is not just a political fix, as were the first two attempts by the government to address this problem. The bill now has a great deal of credibility because it goes to the root of the problem and fixes it without distorting the important principles underlining the Commonwealth Electoral Act.

In the remainder of the time, I will briefly say how this bill will work. The population estimates are based on census data updated for intercensal population changes—overseas migration, natural increases et cetera. Although census population figures are a complete enumeration of the population, there is a degree of undercount in the population figures, which I have indicated and which I do not think the bureau has satisfactorily addressed in the Northern Territory. At the 2001 census the ABS estimates that there was an undercount of 7,800 in respect of the Northern Territory. Census population figures are adjusted for the undercount estimates. Undercount estimates are derived from a post census survey, which I spoke about earlier, and as such are subject to a standard error.

This standard error is the measure of the likely difference between the survey estimate and the true value. There are two chances in three—that is, 67 per cent confidence—that the true value will be within plus or minus one standard error of the estimate. There are 19 chances in 20—that is, 95 per cent confidence—that the true value will be within plus or minus two standard errors of the estimate. The standard error for the Northern Territory undercount estimate is 1,300, thus we can be 95 per cent certain that the true value of the net undercount for the Northern Territory is within 5,200 and 10,400—that is, 7,800 plus or minus two standard errors; 1,300 times two, which equals 2,600. The standard error on the undercount estimates carries through to ABS population estimates.

This bill provides a two-stage process for taking the undercount standard error into account. The first stage, clause 48(2D) is to ascertain if it is worth while proceeding—that is, if the territories are within the required margins. The second stage, clause 48(2E) is to rework the determination calculation with the undercount standard error added to the population estimates.

Clause 48(2D) tests to see if it is worth while taking the margin of error in undercount estimates into account. Subclause (2D) applies if the margin by which either the Northern Territory or the ACT falls short of a seat is less than or equal to two standard errors. This bill also deals with the ACT, which of course currently has two seats, and once had three and which also suffers from similar sorts of issues in terms of population estimates and margins of error, although you would expect that the accuracy for the ACT would be somewhat better than for the Northern Territory, given the isolated communities across the Northern Territory.

Using the 2003 determination calculations for the Northern Territory as an example, the Northern Territory, as I said earlier, fell short of a seat by 294, which is less than two standard errors of the measure of the undercount—which was 2,600. Thus the subclause would apply to the Northern Territory. On the other hand, the ACT fell 10,550 short of a seat, which is greater than two standard errors of the measure of the undercount for the ACT—which is 2,400. Thus this subclause would not apply to the ACT in these circumstances. If clause

48(2D) applies, then clause 48(2E) allows for the population of the NT or the ACT to be increased by two standard errors of the measure of the undercount and then for the determination calculation to be redone using the increased population figures.

I know you are impressed by all that information, Mr Deputy Speaker, and you understand it all—and it is incredibly important. What we have seen here is a very constructive attempt by JSCEM to come to grips with a very technical problem and come up with a very constructive and creative way to address the problem. In doing so, what they have done is to guarantee into the future, in my view, that the Northern Territory will sustain two seats. It is unlikely to get to three for a damn long time. I can see no circumstances in the foreseeable future, using this formula, which would see the Northern Territory go back to one seat. That is incredibly important because we do not want to see a situation where the Northern Territory's representation is again halved.

I note that my friend and successor in the seat of the Northern Territory, Mr Dondas, has walked into the chamber. Mr Dondas would understand exactly what I am talking about when we discuss issues to do with population in the Northern Territory and the need to make sure that you get as accurate as possible a picture of what the population is at any point in time. This bill will be applauded by the people of the Northern Territory. I am confident it will be applauded by the government of the Northern Territory—and I am sure it will be applauded by the opposition in the Northern Territory. They know, as I know from my own experience, that we do need to make sure that the voice of the Northern Territory—a small community in numbers; albeit large in area and large in life—be appropriately loud in this place, at least in terms of making sure that we represent the whole community. We can do that best by guaranteeing into the future that we get two members in here and not just one.

I am sorry that we cannot provide the ACT with three seats into the future. But, clearly, this piece of legislation does afford them a better opportunity into the future to get three seats. Again, I think it is a very good recognition by this parliament of a way to address a technical issue very creatively, without undermining the principles which form the basis of the Commonwealth Electoral Act.

We do not want to be in a position, as we would have been had we adopted the first piece of legislation introduced by the government, of passing a piece of legislation which would have been an absolute political fix, which would undermine the credibility of the Electoral Act and which would create a precedent for future governments to intervene in a very political and partisan way in determinations made by the Electoral Commission. Whilst I might have been in the position myself of supporting that piece of legislation at the time, I am glad to say the error of my ways has been pointed out to me by the very informed decisions made by the Electoral Commission. I remind the chairman of the Electoral Commission that the submissions which I made to the Electoral Commission did contemplate the recommendations which were made by the joint standing committee, which I thank for the work it did and the excellent report and recommendations which it brought forward which now form the basis of this legislation.

Mr SOMLYAY (Fairfax) (10.31 a.m.)—I am very pleased to follow the member for Lingiari in the debate on the [Commonwealth Electoral Amendment \(Representation in the House of Representatives\) Bill 2004](#), because he and I have had a long association.

Mr Snowdon interjecting—

Mr SOMLYAY—I will not tell too many stories, Warren, but in our early days here we met many times on the football field. Our respective careers took us to different states. Mine took me to Queensland and his took him to the Northern Territory, and we again met up here in parliament many years later.

I have had a long association with the Northern Territory. On Christmas Day 1974, I was a young person living in Canberra. The Director-General of Health rang me on Christmas morning and said, ‘Listen mate, can you get into the natural disaster headquarters? Something has happened in Darwin. We do not know what has happened, but the NDO has been mobilised. Can you get in there?’ I asked, ‘Will I be home for Christmas lunch?’ And they said, ‘Yeah, sure. We only want you there for an hour or so.’ I got home four days later. We all know what the devastation was in Darwin, and I was tied up with the medivacs out of there and a lot of the emergency work.

Two years later, I was chief of staff to the minister for the Northern Territory, and I was vitally involved in the writing of the Northern Territory (Self-Government) Act, which gave the territory self-government on 1 July 1978. By coincidence, 20 years later I was back in this place as a minister for territories at a time when the government initiated a referendum in the Territory to bring about statehood, which I would have thought was a noncontroversial issue at the time. Unfortunately, the referendum question became more complicated than was intended and the people of the Northern Territory voted against becoming a state. I still hope beyond hope that that question will be resolved and that it can be done in a way that is fully inclusive and the Territory can become a state, because I think it should be. If it were a state, we would not be here talking about this bill right now.

I also want to acknowledge the presence of the member for Kooyong, the chairman of the joint committee. There is no-one in this country who has a better knowledge of electoral matters than the member for Kooyong, and his knowledge and contribution are respected by both sides of the House. This bill gives effect to the government’s response to the findings of his joint committee. Not only were the joint committee’s three recommendations unanimous, but the government fully supports them.

All three committee recommendations are encompassed in the bill, and they have two unambiguous purposes. Firstly, they clarify and define the statistical processes used to calculate the number of House of Representative members each state and territory is entitled to elect. Secondly, they ensure that the Northern Territory is not disadvantaged at the next election by what the committee saw as a flawed process in the 2003 quota determination. This bill sets aside that determination in relation to the Northern Territory so that at the next election it can continue to elect two members. However, the amendment—the exception—only applies to the next election, because, if this bill is passed, future determinations will be subject to its other amendments which clarify the process of quota determination.

Mr Deputy Speaker Mossfield, as you are well aware, the Australian Constitution guaranteed each original state at least five seats in the House of Representatives. Subsequently, the Australian Capital Territory and the Northern Territory were guaranteed one seat each by the Commonwealth Electoral Act 1918. Subject to these minimum entitlements, a combination of the Constitution and the Electoral Act sets out a precise manner for determining the number of House of Representatives members that each state and territory can return at a federal election. This determination is based on total population figures, both for the Commonwealth and

also for each state and territory. The method of calculation is quite specific—that is not the problem, and this bill in no way seeks to alter that. The problem is the lack of a definition and a time frame for the actual statistics used in those calculations. What this bill aims to do is to provide a definition and a time frame, certainty and transparency, to the statistics used to calculate how many members each state and territory is entitled to elect to the House of Representatives.

What highlighted this lack of certainty—this lack of definition and transparency—in the present processes was the February 2003 determination. In 2003, the Australian Electoral Commissioner found that Queensland, because of its increased population, should gain one extra seat and that South Australia and the Northern Territory each should lose one. What this meant for the Northern Territory was that at the next federal election it would be entitled to only one member instead of its current two, as the member for Lingiari pointed out, to represent a population of approximately 200,000 people. The Electoral Commissioner determined that the Northern Territory was 295 people short of the quota for two seats.

While 295 may seem to many to be a small number of people, the shortfall has a very big meaning for the Northern Territory. We are talking about a shortfall of 295 people in an estimated—I stress the word ‘estimated’—population figure for an area of over 1.3 million square kilometres. To put this in perspective, we are talking of an estimated shortfall of 295 people in an area roughly twice the size of New South Wales. If we could be certain that this quota was calculated on reasonably accurate published figures then I would say that, even though representing the interests of the whole of the Northern Territory is an enormous job for one person, the referee—the Electoral Commissioner—has spoken; he has made his calculations according to law; and we would have to abide by his findings. However, it is not as simple as that, which is why this decision resulted in an inquiry.

The loss of the Northern Territory’s second seat by such a small margin generated much public discussion, and, as a result, in July 2003 the Special Minister of State requested that the Joint Standing Committee on Electoral Matters inquire into and report on guaranteeing a minimum of two House of Reps seats each for the ACT and the Northern Territory. The Joint Committee reported in November 2003, with, as I said, three unanimous recommendations. The first two recommendations define and specify particular statistics and processes to ensure uniformity and fairness in determining future quotas for each state or territory. The third recommendation was:

That the 2003 determination be set aside by government legislation to the extent that it applies to the Northern Territory.

That is, the committee recommended that, just for the next federal election, the Northern Territory be allowed to elect two members to the House of Representatives. The amendments contained in this bill should eliminate the need for such an exception in future, because a quota will be calculated using more specific figures and transparent processes.

As I have already said, the government fully supports all three recommendations of the joint standing committee and has drafted this bill specifically to legislate those recommendations. However, I must stress that the committee did not support a legislative guarantee of two seats for each territory regardless of its population, and nor does the government. In fact, the committee reported:

The existing basic principle for determining the number of Members to be elected by the Territories should not be disturbed. It is, however, also important that any systemic disadvantages imposed on the Territories in comparison with the original States be addressed whenever they are identified.

That is the crux of the matter: the committee identified systemic disadvantages to the territories in relation to statistical calculations, and has made simple recommendations to overcome them. The problem is not in the legislatively defined processes for calculating the quota; the problem is in the estimated population figures used in the calculations. With this bill, the government seeks to rectify the lack of definition which has now been recognised.

The committee was concerned about the method by which the 'latest statistics of the Commonwealth' are obtained and about the absence of legislative definition. It found that, without such definition, the Australian Statistician and the Australian Electoral Commissioner 'are given a degree of unintended discretion when deciding which statistics will be used'. For instance, there is no stipulated time frame for the figures—they could be the latest figures, the last ones published or even last year's figures. There are no directives on whether the figures have been published or not; and there are no directives on what error margin is used for the estimates or on publication of the calculations.

Using population figures from different dates can of course give different results. For example, in the February 2003 determinations, the Australian Bureau of Statistics provided the Electoral Commissioner with the September 2002 population figures despite the fact that, at the time, even the June figures were still unpublished. If the June figures had been used, the NT would have retained its second seat because the estimated June population was higher than that for September.

This bill seeks to amend the Commonwealth Electoral Act so that the Electoral Commissioner is required to ascertain relevant populations on the reference day—the first day after 12 months from the first sitting of the House of Representatives of the new parliament. It specifies the statistics and it specifies the day. It also requires the statistics to be published. The commissioner must use:

... statistics ... that the Australian Statistician has, most recently before the reference day, compiled and published in a regular series ...

The other aspect of the population calculations which concerned the committee were error margins. Because we do not have a census every election, populations can only be estimated. Even the Australian Bureau of Statistics has acknowledged that there is greater unreliability in the population estimates for the territories than those for the states, largely because of the difficulty in deriving accurate estimates from smaller populations. This was covered by the member for Lingiari. The error margin for the Northern Territory is up to three times higher than that for the states and six times higher than the error margin for the whole of Australia.

The shortfall of 295 for the Northern Territory last year is well within that error margin. That is why the joint committee recommended that in future, if the quota shortfall for a territory is within the margin of error acknowledged by the ABS, the Australian Electoral Commissioner should use the population figure at the top of the margin of error to determine that territory's entitlement. It should use the higher figure.

If this bill is passed, and I am sure it will be—if the Commonwealth Electoral Act 1918 is amended to specifically define population calculations for House of Representative quotas—then the 2003 problem will not arise in the future. Not only does this bill ensure fair represen-

tation for the Northern Territory at the next election; it ensures that the quota calculations for each state and territory will be based on published statistics, in a particular time frame, with the Australian Statistician advising the applicable margin for statistical error.

It is not that anyone thinks that the Australian Statistician or the Electoral Commissioner do, or ever have done, the wrong thing—far from it—but it safeguards everyone concerned to have the base statistics for quota calculations defined, published and transparent. It ensures that justice and fair play are not only done but seen to be done. I commend the bill to the House.

Mr McMULLAN (Fraser) (10.44 a.m.)—I support the **Commonwealth Electoral Amendment (Representation in the House of Representatives) Bill 2004** for the reasons outlined by the member for Lingiari and because it is a step in the right direction. It restores a reasonable outcome for the Northern Territory. But I am extremely concerned that the system we are establishing here, improvement though it is, is still not fair to the people I represent, the ACT voters. However, it is an improvement so I will support it. The voters of Canberra get the worst deal in Australia in terms of voting rights, and I will continue to campaign about that until it is corrected.

The situation in the Northern Territory was outlined by the member for Lingiari and I will not take up the time of the House by repeating that detail but will simply say that I think we have here a very pragmatic proposition dressed up in high principle. But it is actually very pragmatic and I support it for recognising issues that need to be recognised. I had a discussion in an entirely different context with the Statistician, Mr Trewin, when I was shadow Treasurer. In the course of that conversation, just by coincidence, we got on to a discussion which led to his raising his concerns about the margin of error for the Northern Territory in assessments around the census and derivations from it, including for electoral purposes. So that the committee has recognised that pragmatic point is correct. I would not originally have thought that was something that needed to be done. As I say, my conversation with the Statistician was not in the context of knowing that this bill was to be considered—that discussion was more than 12 months ago—but I do accept that he legitimately holds that view. I respect the ABS as a fine institution and Mr Trewin seems to be doing a very good job at its head.

Mr Georgiou—Canberra would not have lost its third seat if this had been in place.

Mr McMULLAN—That is not my point, although it is a valid one. The other pragmatic point—I do not regard saying that something is pragmatic as a criticism—is that I think the committee has erred in favour of representation instead of against. When there is a choice to be made about whether or not people should get more representation, within reasonable limits we should decide in favour. So I think those two things are correct.

I recognise that for the last 20 years we have had an established system of determining representation for states and territories which was designed—I strongly supported it when it was designed and in principle I still do—to overcome past mistakes, to put it politely, or past behaviour and to set down within the constraints of the Constitution a fair proposition that means that nobody can fiddle with electoral representation. That is an important part of our political system and one of the key elements of its integrity. I support all that.

But the problem is this: when you have a well intentioned system that for the most part delivers a fair result within the constraints of the Constitution, which I do not propose we should

contemplate changing, but which continually provides an unfair result in one area, we have to look at it. A constituent of mine who is, of course, very well known in this area, Professor Malcolm Mackerras, is very critical of the committee's report—I do not share all his views—and argues that the territories prior to this bill and the ACT subsequent to it are still treated unfairly and that we need to deal with this matter. One vote, one value is not about saying, 'We want a system that treats everybody as though they are the same'; we want a fair outcome.

Let me just talk about the outcome we are achieving as a result of this bill. I support the bill; I support erring in favour of giving the Northern Territory the second seat. Not only will I vote for this bill but also I am happy to come in here and speak in support of it. But on the last figures that I got—I thought this bill was going to come up a few weeks ago, so as my figures are from 2 March they are four weeks old—the total enrolment for the Northern Territory was 108,325, and it will get two seats. In my seat there are 112,000 voters. There are more voters in my seat than in the two seats that will be created in the Northern Territory. That is a travesty of one vote, one value.

People in Western Australia used to pass laws deliberately to have a two to one ratio, and that was a rort. This is not a rort. This is a properly constructed system which was done with good intentions and it produces an unfair result. In round figures, my seat is 113,000 and the seat of my colleague the member for Canberra is 107,000; the combined number comes to just under 220,000. That means we could have, in fact, four ACT seats which would be the same size as the two seats being generated here for the Northern Territory.

I do not support that; that would not be a fair outcome. It would be nice for my voters but it would not be fair, so I do not support that. I do not want anything gerrymandered in favour of my constituents—I just do not want the system to turn out badly for them. Let me point out what would happen if there were three seats in the ACT. On the figures as at 2 March, the average enrolment for those three seats would be 73,161. For example, in the state of Western Australia the smallest seat, the seat of Moore, has 73,000 enrolled voters. In Tasmania, the smallest seat, the division of Lyons, has 64,000, and in all the other states with the exception of South Australia the 73,000 would not trigger the redistribution provisions in those states for being disproportionately low. We are 50 per cent over what is the situation in any other state or territory, 100 per cent over in the case of the Northern Territory and 60 per cent over in the case of Tasmania.

One vote, one value is about the fact that everybody's vote should be as equal as we can make it in determining the outcome of the election in the country. Broadly, we do that in Australia better than most countries in the world, and one of the reasons has been the 1984 amendments, which were very good amendments, and the continuing scrutiny and monitoring of the Joint Standing Committee on Electoral Matters and its bipartisan performance over the years. Those things are great strengths in our system. But we still have to face up to the embarrassing reality that we continue to provide, as a result of an ostensibly fair system, an unfair result. You cannot go on shrugging and saying, 'Well, it's unfair; bad luck.'

Mr Georgiou—What do you propose?

Mr McMULLAN—It needs a bit more work. There are a few propositions. Malcolm Mackerras has a proposition that says that the only fair way to deal with the territories is in fact to deal with them by number of voters rather than by population because the population

figures will never work out one vote, one value but dealing with it by number of electors will. I think that would solve today's problem but I am not convinced yet that it is an ongoing solution. But it is an interesting proposition that says that we need to look at the long-term consequences, because the projections of population as I see them suggest that the problem in the ACT is going to get worse, not better. In 2006, after the next census, the range of population in the other states and territories is between 95,000 and 140,000 people per constituency and in the ACT it will be over 165,000.

If I thought this was a one-off, I would just shrug and say, 'That's what happens; sometimes you fall a little bit below, sometimes you end up a little bit above.' As someone who previously had their seat abolished as a result of one of these changes, one simply lives with the consequences. You cannot have a rule that says some people can win but nobody can lose; it cannot work like that. But you have here an ongoing outcome that is proving to be systemically unfair, although not intentionally. It may well suit the current government that it is unfair to my constituents, because they continue to commit that arch-folly of voting for the Labor Party, but it is not a system designed to derive this outcome. It is, however, a system that does derive this outcome.

I simply want to flag this and say that nobody is addressing it because everybody is hiding behind the fact that we set this system up with good intentions and, nationally, it is providing a fair outcome. We have recognised an anomaly in the Northern Territory and we have dealt with it pragmatically in a manner which I am prepared to support and which will, at the margin, improve the circumstances for the ACT. I accept that, because our margin of error, while not as high as in the Northern Territory, is higher than the national average. It will not be sufficient to resolve the anomaly that exists, but as it is an improvement and as it deals generously to the voters of the Northern Territory—erring in favour of representation rather than against it—I am happy both inside my party and publicly to vote for it and to speak for it.

But we have to address this situation. Nobody I have ever spoken to has any qualms about the fact that the federation compact gave a guarantee of minimum representation to all the states but, in effect, to Tasmania. I certainly have no qualms about that. It is part of the federation compact. It is not consistent with one vote, one value, but it is a decision into which we all entered with our eyes wide open and nobody would wish in the slightest to interfere with it. But looking at this generous proposition that is being laid down for the Northern Territory, I cannot stand idly by and allow the value of the vote of the people who do me the great honour of sending me here to represent them to be continually undervalued, valued at significantly less than the vote of anybody else in this country. I am going to continue to raise it. I think that to rush in and say that A or B is the best answer is to be too glib about a complex question. I regret the fact that the committee continues not to, in my view, adequately recognise this.

I have raised issues in the past that are of the pragmatic character of the ones that are being raised here today, and I would still like to see those addressed. They do not breach the principle of one vote, one value. They are consistent with the way in which the Constitution operates, and those are issues that need to be considered. For example, while the Constitution refers to populations—that is, the catchment area from which voters are drawn and not voters—it does not deal with the ACT in that manner, because part of the catchment area for voters for the ACT is Norfolk Island, and they are not counted as part of the population for the ACT. I

appreciate they have a special character, and there is an argument against that proposition because of the unique voting circumstances on Norfolk Island, but if we are talking about pragmatic propositions that do not breach the principles and project fair outcomes, I continue to put that proposition. It does not have the support of my party, let alone the joint standing committee—and I do not criticise people who come down on the other side of that particular point. It is simply that they continue to come down, on the balance of all the decisions, in a manner that leads to an unfair outcome for the people who send me here to represent them. I cannot quietly accept that.

There is the Mackerras proposition and, while I have always been a critic of Malcolm about his predictions and what might happen in elections, I respect him as an analyst of the statistical circumstances with regard to elections. He is always accurate in that, and he has a proposition which warrants serious attention. I am content for people to pursue better alternatives, but we have a continuing anomaly and I will not stand idly by and allow it to be perpetuated. However, having said that, I reiterate my support for the proposition. I indicate my continuing concern about the broader consequences of the structure as it is operating, but this pragmatic set of proposals which errs in favour of enhancing the representation of the citizens of the Northern Territory should be supported.

Mr CAMERON THOMPSON (Blair) (10.59 a.m.)—I am pleased to be speaking on the [Commonwealth Electoral Amendment \(Representation in the House of Representatives\) Bill 2004](#) today. I start by paying credit to the member for Solomon. The opportunity for the Northern Territory to maintain two representatives in the House of Representatives has arisen because of his efforts. The member for Solomon, who is here today, has put in a big effort into this, and I think it is entirely appropriate.

I lived in the Northern Territory from 1986 to 1993 and have a strong attachment to it because of its unique character and its great promise as a rapidly developing frontier of Australia. The thing about the Territory is that you never know what is going to happen next. No other place in Australia has the character of the Northern Territory. Therefore, I believe it does deserve consideration.

The Northern Territory is not readily understood by people in other parts of Australia—the pressures that apply, the unique factors that come into play and the character of the place. The member for Solomon, when speaking about this issue, said that the creation of two seats in the Northern Territory would ‘carry the Territory across the momentary statistical glitch that threatens to again disadvantage the occupants of 1,346,000 square kilometres of the mainland’. He said:

Territorians do not seek unusual or inappropriate consideration.

We do not complain that we are not counted at the time of a national referendum in the same way that other Australians are counted.

We do not complain that we have no right to trial by jury, nor that the Commonwealth retains unusual powers within the Territory that it does not have in the states and that the states would not concede to.

We contribute, on a per capita basis, some three times the average export earnings of the states. Territorians have always punched above their weight.

Those comments go some way to illustrate the Northern Territory’s unique circumstances and the added burden Territorians carry. Trial by jury and being counted along with other Austra-

lians at the time of a national referendum are things that we should be delivering to all Australians. I accept the words of the member for Fraser, who said that we have to continue to work our way towards improving the electoral system, ensuring equal representation and constantly striving to deliver the same rights to Northern Territorians as those enjoyed by other Australians.

Some places in Australia have certain innate advantages. Someone like me—I live in Ipswich and come to Canberra—would probably challenge what the member for Fraser said. Because people in Canberra are at the seat of the nation's power they have a certain degree of influence, an ability to impact on what goes on in this place—something that Ipswichians have to fight to do. People who live even further away in the Northern Territory would probably have an even bigger battle. This bill is about recognising the needs of people above statistics.

The amendments clear the ambiguity on which statistics are to be used in determining the electoral entitlements of the states and territories. Because there is an apparent shortage of 295 people in the Northern Territory, the quota for representation was to have been cut to one member of the House of Representatives. Under this bill, if the shortfall is within the margin of error, the Electoral Commissioner can redetermine the entitlement.

I note that both members of the House of Representatives who are Northern Territory members support retaining two seats in the Northern Territory, and it is very good to see that. You might infer from the suggestion that the number of seats in the Northern Territory is going down that the population of the Northern Territory must be falling. That is not the case. It is simply that, at this stage in its history, the rate of growth is slower than elsewhere in Australia. But the thing about the Northern Territory, as I said before, is that things come in waves. They come from out of nowhere; they can come and be gone before you even realise. Development up there happens in big waves.

In the period that I was in the Northern Territory, from 1986 to 1993, there was very little movement in the population and there was a real struggle in those times by the government up there to maintain and promote activity and to get it to happen. But the next wave did happen. It started almost as soon as I was out the door; I do not know whether I had anything to do with that, but as soon as I was out the door, along came the cavalry, figuratively and actually. A cavalry regiment turned up there, and development really kicked off. The place really took off. When I went back there some time later, I just could not believe that Palmerston, where I had lived, had gone from being a kind of a village into a full-blown urban area with all the services that you could expect elsewhere within the greater Darwin area. Of course, things could go straight back to a slow rate again. That could happen.

There is no question that development is happening in the Northern Territory, and I think it is absolutely essential that we recognise the fact that it is moving forward, that its needs are always diverse and challenging, and that to go back to one member would be a retrograde step. In some of the reports I saw on this matter, the question was raised: what is the cost of an MP in the Northern Territory? The cost of having an MP in the Northern Territory is apparently about \$800,000 for four years, and establishing a separate office for a new electoral division in the Northern Territory costs about \$200,000. So this might cost around \$1 million. I think that is a very small price to pay to ensure that people in the Northern Territory are aware that there is a commitment by all Australians to the development of that area.

I think the people of the Northern Territory know that anyway, because over the years we have provided many unique points of recognition of the Northern Territory. The member for Solomon pointed that out when he spoke on this issue. He pointed out that in 1922 parliament first enacted special legislation to allow the Territory to send a representative to attend the Commonwealth parliament, even though they did not have a right to vote. In 1936 they first allowed that member to vote, but only on matters relating to ordinances of the Territory. In 1958 they were allowed a vote on any proposed law or matter relating solely or principally to the Northern Territory and, finally, in 1968 that person was granted full voting rights. There were two senators elected in 1975, and in 1978, as has been mentioned by the member for Fairfax, the Northern Territory gained self-government. Each one of those steps has been a recognition of the development and the people of the Northern Territory. And this process is going to keep going on, as the member for Fraser quite rightly pointed out earlier on in this debate. We are going to have to continue to revise our attitude towards the Territory, and also towards the other territories of Australia, and we are going to have to continue to focus on the needs of those areas and maintain a special interest in and awareness of them.

Let me point something out. I listened to the member for Fraser, and he really focused on the question of the need for one vote to have one value. I am a Queenslander, and the very question of one vote, one value achieved some prominence in Queensland back in 1989 or thereabouts. There was quite a focus on the so-called gerrymander that existed at that time, when there was not one vote, one value in Queensland. We have now progressed to a new system that seeks to keep votes in the state of Queensland as equal as possible. It is an important principle, and I think everybody agrees with that. It is important, though, to recognise that for people who are in far-flung areas—and the member for Lingiari underlined this when he said how difficult it is for him to cover the massive seat that he deals with—there are added pressures and they do need added resources.

But there is a problem in Australia because we do not have entirely one vote, one value. The member for Fraser argued that we are doing a lot better than most other places but it still is not equal. In fact, in the five largest states the average enrolments at the 2001 election ranged from 80,428 in Western Australia to 87,429 in Victoria. However, Tasmania's guaranteed five seats, due to its status as an original state, meant that Tasmanian seats averaged just 66,335 voters. The member for Fraser highlighted the fact that in his electorate there are over 110,000 electors. So at one end, under the current system, without even taking into account the effect of this piece of legislation, you can go straightaway from 66,000 voters—I think the member talked about 64,000 in the seat of Lyons—to 110,000 or more at the other end of the scale.

I recognise that when you look at the situation in Tasmania, if you are going to change it, you are talking about constitutional change. In order to continue to progress Australia we should not avoid discussion about problems that may exist within the original Constitution. If that situation is not going to be rectified and if we are not going to come to a situation where those five seats in Tasmania start approaching much more closely the norm, it is only an injustice as far as people at the other end of the scale are concerned that their votes are worth only half as much.

The entitlement quota which decides representation is based on the Commonwealth population minus territories divided by 144, which is twice the number of state senators. The num-

ber of electorates in each state and territory is then decided by dividing the population by the quota. If the remainder is more than one-half, the state or territory is entitled to one more member. Of course, as we have found out, if it is not one-half—exactly 0.5—it is not so entitled. If we go back over history and look at the situation for the Northern Territory, we see that the entitlement quota in the Northern Territory in 1991 was 1.377; in 1994, 1.428; in 1997, 1.4540; in 1999, 1.5239—obviously, we go from one to two at that point; and then, going to the question that we are addressing here, it fell back in 2003 to 1.4978. As has been revealed in this discussion today, the number of people who make up that small number spread over that vast area of the Northern Territory is 295. If you set loose 295 people in the Northern Territory, which is otherwise almost completely bare of population, I defy you to find a single one of those 295 people, because it is a massive area—one-sixth of the size of Australia. There is just no way you could do it. It is obviously entirely within the statistical margin for error, as has been revealed in the report that has been done for the House on this matter. It is just commonsense that we should make the change that is now proposed.

One of the points that I would like to come to was touched on slightly by the member for Lingiari. I took from what he was saying that he was concerned that within the Northern Territory there are now two seats of completely different character. He said that his seat is much bigger than the other seat. He seemed to think that it is necessary that that be corrected in some way. Having lived there, I honestly cannot see how you could possibly do it.

The area of Darwin is a dense urban area—in many respects, just like any other urban area in Australia. The rest of the Territory is a broad completely decentralised, remote area. It is impossible to compare the two. As has been pointed out many times during the debate, Lingiari has a 50 per cent Aboriginal population. The next biggest Aboriginal population in any seat in Australia is 14 per cent in Kalgoorlie. There is a huge gulf between those two areas.

The essential character of Lingiari increases the diversity of this place. I think it is important that we do have a diversity of seats and that people come into this place from very different backgrounds so that we accurately reflect the character of Australia. If we just turn everyone into a homogenous sludge and have everybody with a little bit of rural, a little bit of urban, a little bit of black, a little bit of white and a little bit of everything else that goes around, the debate is going to be very confined. We need people to accurately reflect a much broader view of the population.

If the member for Lingiari was suggesting that we somehow cut Darwin in half and then tack it onto the rest of it, I can understand that he may have some desire, because he has such a large area to cover, to reduce it and therefore cover it better, but it is still going to be a huge area. I think that the diversity that is represented by those two seats is a symbol of the fact that our parliament is able to bring together different views and is able to work those different views into something that adequately reflects an Australia whose image and identity is diverse and complex but which, in the end, knows how to work together and produce a successful outcome.

I am very pleased that the efforts of the member for Solomon in relation to this have come to a successful conclusion. The Joint Standing Committee on Electoral Matters has done an excellent job in bringing into focus the very important core issues of this debate. The fact that *Australian Demographic Statistics* does not, as initially claimed, contain all the estimated resident population figures used for the determination of entitlements is something that is a bit

of a revelation, and I acknowledge the efforts of the chairman, the member for Kooyong, in bringing that to light—the committee has done an excellent job.

As a parliament we now have a much better understanding of the way in which the AEC have sought to access that information. They have at times used information that has not been published and they have sought much more current information from the publishers of the *Australian Demographic Statistics*. That is precisely why on this occasion the Northern Territory, as far as 2003 is concerned, dipped below the entitled amount. If they had gone on the published figures—the ones for June rather than September—there would never have been this debate today.

Within the joint committee there were, I think, two different versions of the reason why we should be adopting this change. Both of them are very good. One is the margin of error reason, and I think that is excellent. The other is the one I have just referred to; that is, that the published statistics should have been the June figures—in other words, the latest published ones, not the ones that are still on the drawing board or in a draft form or have been recently collected. It is important that they are the figures that have been published. Those are the two versions. It is like having two different equations that produce exactly the same outcome.

It is really good in this place that, on this particular debate, we have gone all around the bushes and we have come up with the same outcome. So whether you are a Northern Territorian or someone from Canberra—like the member for Fraser—or your background is more one of an historical concern for the Territory, such as mine or the member for Fairfax's, the fact is that we are seeing here a very positive advent in the history of the Northern Territory in determining that there should be a second seat and that, under the current forecasts, that second seat will continue to be entitled. Therefore, we wish the Territory well in its future development.

Mr DANBY (Melbourne Ports) (11.19 a.m.)—I rise to support the **Commonwealth Electoral Amendment (Representation in the House of Representatives) Bill 2004**, or, as it might be colloquially known, the 'Dave Tollner preservation bill'. I am particularly happy to support this bill because, as the member for Lingiari outlined, its purpose is to preserve the second seat in the Northern Territory, which is currently held by the member for Solomon—so it will preserve the seat of Solomon for reasons of principle.

The seat of Solomon is named after the Hon. Vaiben Solomon, who was Premier of South Australia for a week in 1899. In those days, of course, the Northern Territory was incorporated in the mandate of South Australia. As far as I know, he was the only Jewish Premier of an Australian colony or state. Solomon must have been quite a character, because, in a typically erudite article, Sir Zelman Cowan, writing on the life of Solomon, said that Solomon allegedly walked down the streets of Darwin after a bet stark naked—not the typical behaviour of a Premier.

The reason the government wants to save the seat of Solomon, however, is not to honour Vaiben Solomon. It obviously has a political motivation in wanting to preserve the honourable member for Solomon and, after due deliberation and advice by the Joint Standing Committee on Electoral Matters, to see that there are, justifiably, two seats in the Northern Territory. This will ensure that the member for Solomon has a seat to contest at the next election, even if on current polling there is some suggestion that the opposition might win it.

If this bill were not passed, the honourable member would have to go head to head with the honourable member for Lingiari in a reunited Northern Territory seat. That would be, in my view, the political equivalent of going up against a very large and hungry Territory crocodile in a very small waterhole. We on this side of the House support this bill but are also a little cynical about the government's motives for introducing it. As a result of this bill being passed, the Northern Territory, which at the last election had 110,000 enrolled voters, will have two members in this House while, as the member for Fraser very eloquently pointed out, the Australian Capital Territory, with 220,000 enrolled voters at the last election, will also have two members.

If the Northern Territory seats were to be reunited, it would create a seat of more than 110,000 voters, and we are told that this is far too many for one member to represent. But, in the 2001 election, the division of Canberra, as the member for Fraser pointed out, had 108,000 voters and the division of Fraser had 111,000. There will be even more at this year's election. In the presence of the Chair of the Joint Standing Committee on Electoral Matters, I suggest that this does present anyone who is interested, as I know he and the committee are, in fair representation in this place—one vote, one value—with an ongoing problem that should be addressed.

The opposition do not begrudge the Northern Territory its two seats, particularly since we are confident that at the next election Labor will win both. But it seems obvious that, if the Northern Territory is entitled to two seats, then the ACT should be entitled to three. The honourable member for Solomon is getting an act of parliament that will preserve his seat, while the honourable members for Canberra and Fraser will be left representing more voters than any other member in this House.

There are more serious reasons why this bill is important and why the opposition is supporting it. The bill gives effect to the unanimous recommendations of the Joint Standing Committee on Electoral Matters, of which I am Deputy Chair and the honourable member for Kooyong, who is here, does a fine job in chairing, particularly on this inquiry into territory representation. The committee tabled its report on territory representation last December. The committee report followed the announcement in February 2003 that the Northern Territory was to lose one of its seats at the next election because the population of the Northern Territory fell short of a quota for a second seat by a mere 295 people.

When the committee conducted its inquiry, we were disturbed to learn of an ambiguity surrounding the way in which the Electoral Commission determines the number of seats to which each state and territory shall be entitled. The Constitution says that 'the latest statistics of the Commonwealth' must be used to determine the population of each state and territory, but this term was not defined anywhere, as our inquiry established.

This gives the Australian Statistician and the Australian Electoral Commission a degree of discretion in deciding which quarterly population figures will be 'the latest statistics of the Commonwealth'. This discretion was not intended by the framers of the Constitution or the Electoral Act. I believe that this bill, our investigation and the committee's report have done a lot to refine and improve our consideration of electoral matters in this specific area. The bill will take out that discretion, which could have been used for political benefit. There was no suggestion that it was, but by removing this discretion we remove that possibility.

The Northern Territory was deemed to have lost its entitlement to two seats because its population was 295 below quota, as I said. But it is perfectly possible that using the next quarter statistics from the ABS or the previous quarter's figures the Territory would have kept its second seat. Allowing the AEC to decide which set of figures to use in effect gives the AEC the power to manipulate the electoral process. We are not suggesting that the AEC went into it with that motivation but certainly the Joint Select Committee on Electoral Matters and now the government—as indicated in this bill—and the parliament do not want to leave open that possibility to anyone.

For the 2003 determination in the Northern Territory the Electoral Commission requested a special version of the September 2002 population figures even though at the time the preceding quarter's—June 2002—population figures had yet to be released. If the June 2002 population figures had been used the Northern Territory would have retained its second seat. The AEC argued that the September figures were 'the latest statistics of the Commonwealth', the expression required to be used as the criterion for determining the AEC's decision. Not surprisingly, however, many people expressed reservations about the process used by the AEC. Critics argued that 'the latest statistics of the Commonwealth' should be read to mean the latest published statistics of the Commonwealth, not the latest statistics the AEC had specially prepared for its own use.

When this bill first came before the House earlier this year the government tried to dodge this issue by bringing in a bill which simply said the Northern Territory would keep its two seats without dealing with the problem that the committee inquiry uncovered. I welcome the fact that the government has now decided to respond to the committee's recommendations to improve the process of determining representation in this House.

The bill in its present form clarifies this situation in three ways: by requiring the Australian Statistician to publish all of the population estimates used by the AEC to make a determination of entitlements; by requiring the Electoral Commission to use only those published figures and also to publish the results of its determination, including the calculations involved; and by requiring the AEC to take into account the margin of error surrounding a territory's population estimates when a territory falls short of a quota. If a territory is short of a quota the AEC is to use the population estimate at the top of the margin of error to determine the entitlements. In other words, where there is any doubt about whether a territory is entitled to a seat the territory is given the benefit of that doubt. It does not guarantee the territory two seats, as the member for Fairfax pointed out, but it does give it the benefit of the doubt.

I must say that the very eloquent speech of the member for Fraser brings the apparent double standard in the representation of the two territories into even sharper focus. In my view at some stage the Joint Select Committee on Electoral Matters will have to address this problem and make recommendations to the government. This provision for the margin of error seems a fair one and Labor supports it. It is possible, incidentally, that if this provision had been applied in 1998 the ACT would have retained its three seats.

Mr GEORGIU (Kooyong) (11.29 a.m.)—The **Commonwealth Electoral Amendment (Representation in the House of Representatives) Bill 2004** will give effect to the recommendations of the Joint Standing Committee on Electoral Matters regarding territory representation in the House of Representatives. I want to congratulate the other members—the members

for Fairfax, Blair, Fraser, Lingiari and Melbourne Ports—for their participation in a debate on what is a quite complex and technical area.

The government's initial response to the committee's report was to introduce legislation to implement one of the committee's three recommendations and to announce that it would address separately the other two recommendations. As chairman I think I speak on behalf of all committee members in saying that I am extremely pleased that, rather than continuing down that path, in this bill the government seeks to implement all of the committee's unanimous recommendations. These recommendations are designed to improve the transparency and certainty of the process, take into account the margin for error in the population estimates used in the process and set aside the 2003 determination of the Electoral Commissioner that the Northern Territory should lose one of its seats in the House of Representatives.

The principles and formula for determining state and territory entitlements to seats in the House of Representatives are prescribed in section 24 of the Constitution and section 48 of the Commonwealth Electoral Act. Each of the original states is constitutionally guaranteed a minimum of five seats. The Commonwealth Electoral Act guarantees the ACT and the Northern Territory a minimum of one seat each.

Application of this formula in February 2003 meant that the Northern Territory was deemed to be just 295 persons short of the population needed to retain the second seat it had gained for the first time at the 2001 election. This prospective loss of a seat prompted calls from the territory to be guaranteed two seats in the House of Representatives, the introduction of a private member's bill by the member for Solomon and, subsequently, a reference from the Special Minister of State to the JSCEM.

The committee was asked to inquire into and report on increasing the minimum representation for the territories to provide a minimum of two seats each for the Australian Capital Territory and the Northern Territory in the House of Representatives, and the committee held public hearings in both territories.

The formula used to determine entitlements to seats in the House of Representatives is strictly a matter of arithmetic, based on the population of the states and territories. The formula produces electorates of different population sizes across Australia. As we heard from the member for Fraser, this causes some angst. The Northern Territory has benefited in the current Parliament by having two seats with substantially fewer electors than the national average, half the population of ACT seats and fewer even than the five constitutionally guaranteed Tasmanian seats. In this sense, increasing the Northern Territory's minimum number of seats as a matter of guarantee would have entrenched this benefit.

Various social and economic arguments were made for increasing the minimum guarantee for the territories and the member for Blair has passionately advanced a number of these in the course of this debate. Unfortunately, the committee did not regard such arguments as decisive. The committee did not consider that the current formula for determining the territory's entitlements should be departed from. In other words, subject to the guaranteed minimum of one seat each, the ACT and the Northern Territory should be entitled to representation in the House of Representatives according to the current formula. Maintaining the formula is fundamental to minimising the opportunities for manipulating the number of territory seats, which is essentially controlled by the parliament.

However, in the course of the inquiry two important issues emerged. First the inquiry revealed a lack of clarity in the process for determining population estimates of the states and territories and, second, a significantly higher level of uncertainty in the population estimates of the territories than that of the states.

Under the Constitution the population figures to be used in the determination formula are those shown by 'the latest statistics of the Commonwealth'. Neither the Constitution nor the Electoral Act defines what 'the latest statistics of the Commonwealth' means. The 1986 predecessor of the present committee framed the recommendations leading to the current formula in the Electoral Act. There is a recollection from that committee that there was an expectation that the formula would be based on the latest published quarterly statistics.

The Australian Bureau of Statistics does in fact produce and publish estimated resident population figures for each state and territory in each quarter. However, the absence of a legislative definition of 'latest statistics of the Commonwealth' provides the Australian Statistician and, to a lesser extent, the Electoral Commissioner with a degree of unintended discretion when deciding which statistics will be used for the determination.

This was an issue in relation to the 2003 determination. In October 2002, when the Electoral Commissioner asked the Australian Statistician for the 'latest statistics of the Commonwealth' for the February 2003 determination, neither the June 2002 nor the September 2002 quarterly figures had been published. At the date of the determination, the June 2002 figures had been published. However, a special arrangement between the AEC and the ABS for early publication of the September 2002 quarterly statistics meant those later figures were used. If the June 2002 figures had been used, the Northern Territory would have retained its second seat.

The absence of a legislative definition of the 'latest statistics of the Commonwealth' and the unintended discretion it permits were matters of concern to the committee. Senator Robert Ray pointed out:

The danger is that it is open to manipulation.

He continued:

I am not alleging that there is any conspiracy here; I am saying that we are open to dangerous ground here that I never understood before.

Senator George Brandis, for his part, said:

... there is a dangerous element of discretion left as to when the statistics are called for, which exposes the AEC to the possibility that it could be alleged that the timing of its call under section 47 was being manipulated.

Moreover, contrary to the impression conveyed in the evidence that the process involved the ABS providing whatever population statistics they had available, it is clear that the AEC has closely monitored the evolution of the quarterly figures and has at times pressed for later quarterly figures to be provided to it on the basis that getting more recent figures than the last published quarter's was particularly sensitive. The committee also discovered that the published quarterly ERP figures did not contain all the figures that are provided to the Electoral Commission by the Australian Statistician for the purposes of the determination.

In order to make the process more transparent and certain, the committee unanimously recommended that the Australian Statistician in future be required to include in the published

quarterly ERP figures estimates of the populations of the territories of Jervis Bay, Cocos (Keeling) Islands and Christmas Island, which are required by the Electoral Commissioner in making the determination of Territory representation. To inject an additional level of certainty and transparency into the process, the committee also recommended—and the government has agreed—that the date on which the Electoral Commissioner is to take note of the latest published statistics of the population of the Commonwealth should be precisely specified in the Electoral Act and that the full details of any adjustments and calculations involved in making the commissioner's determination should be published. The bill amends the Electoral Act to achieve these outcomes.

The second area of significant uncertainty in the present determination process identified by the committee was that the population estimates provided by the Australian Statistician for the determination of representation in the House of Representatives are subject to a margin of error. The population estimates are based on the population counts obtained from the previous census. Immediately after the census an estimate is made of the net undercount—that is, the net number of people missed in the census count. The net undercount is added to the census count to produce a population estimate. Witnesses expressed concern about the population estimates for the Territory and the methodology used to estimate the population. There were conflicting opinions as to the efficacy of the population counts, particularly in remote and Indigenous communities, and questions about determining the percentage net undercount to be applied to the whole Northern Territory.

What the committee has called the 'margin of error' in its report is the margin of error surrounding the estimated net undercount figures—that is, the number of people by which the net undercount could actually be over or underestimated. The committee heard that for the Northern Territory it could be 95 per cent confident that the estimated net undercount at the 2001 census was within 1.2 percentage points, or 2,600 people, above or below the estimated undercount.

The significance of the margin for error in the net undercount is that, when the net undercount is applied to the census figures, the margin for error in the net undercount carries through to the adjusted census figures and hence to the quarterly population estimates that are used to determine state and territory entitlements to representation. For the Northern Territory, this means that its estimated population is actually an estimated population range—that is, the estimated population figure supplied by the Australian Statistician plus or minus 2,600 people at a 95 per cent confidence level. Similarly, the ACT's estimated population at the 95 per cent confidence level is actually a population range of plus or minus 2,400 around the estimate of population provided by the Statistician.

Information provided to the committee indicated that the Northern Territory has the largest net undercount of the jurisdictions at four per cent of the population; the Northern Territory has the widest error for margin in its net undercount, at 1.2 percentage points; the ACT has a margin for error of 0.8 per cent—up to twice the equivalent rate for the states; and the error margin for Australia as a whole is 0.2 per cent—one-sixth of the error margin in the Northern Territory. It is clear that the population estimates for the Northern Territory and the ACT are less reliable than the population estimates for the states because of the difficulty associated with deriving an accurate estimate from a smaller population.

The territories' entitlements to seats in the House of Representatives are determined by the result of dividing the population of the territories by the quota calculated under the Constitution. When the division returns a remainder greater than one half of the quota, a territory is entitled to an additional House of Representatives seat. In most circumstances, error margins would have no impact on the result because the population shortfall from the number required to retain or gain another seat is usually much greater than the margin for error. However, where the shortfall is within the margin for error, the committee has recommended that the Electoral Commissioner take into account the margin of error and use the population figure at the top of the estimated population range for that territory in making the determination as to the territory's representation.

The logic of the committee's position is set out in its report which was tabled on 1 December 2003, and it was neatly summarised by the member for Fraser. In brief, in the context of determining parliamentary representation, it is appropriate to use the highest number in the estimated population range because, if the highest number would qualify a state or territory for an extra seat, and if that number was in fact the real population, choosing a lower number in the range may deprive that state or territory of a seat in the parliament to which they are entitled. The government's acceptance of this recommendation is embodied in the bill now before the House. This will prevent a recurrence of the situation where, in the case of the Northern Territory, in the 2003 determination, the shortfall in population was less than the error margin in the population estimate, yet the determination was that the Territory would lose a seat in the House of Representatives. I think it is also worth noting that, had this applied to the loss of an ACT seat after the 1996 election, the ACT would have retained three seats.

The committee's third recommendation was that the Electoral Commission's 2003 determination be set aside by government legislation, to the extent that it applies to the Northern Territory. As the member for Blair highlighted, some committee members believed that the margin for error for the Northern Territory creates significant doubt as to the outcome of the 2003 determination and believed that the estimate of the Territory's 2003 population should have been the estimated resident population figure at the top of the margin for error. To redo the determination on this basis would result in the Northern Territory retaining its second seat. Other committee members believe that it was the intention of the parliament that the latest statistics of the Commonwealth be the latest published statistics at the time of the determination, not a special version or early release of the ERP figures and, for the 2003 determination, the published figures that should have been used were the June 2002 ERP figures. If the June 2002 ERP figures had been used, the Northern Territory would have been entitled to two House of Representatives seats. Despite these two approaches to this issue, all committee members agreed with the recommendation which has been accepted by the government and given expression in this bill.

I have set out as logically and straightforwardly as I can the committee's thought process in arriving at its recommendations. I am very proud of the work of the committee, including the territories representation inquiry. I have to say that the committee's conclusions were based on where logic took us. I want to thank all members of the committee for their commitment to seeking to resolve matters which come before them in a nonpartisan fashion and with intellectual integrity and logic, as well as the practicality that the member for Fraser highlighted.

I thank the coalition members of the committee, Senator George Brandis, Senator Brett Mason, John Forrest and Sophie Panopoulos, and the Labor members, Deputy Chair Michael Danby and Daryl Melham. I thank in particular Senator Robert Ray, a founding member of the committee in 1983, for contributing the benefit of his enormous experience and insight and his recollections of what the parliament intended in introducing the provisions which the committee was considering. I also thank Senator Murray for his dispassionate evaluation of the evidence and positive contribution to the committee's inquiry, not least because, given the make-up of the House of Representatives, the Democrats were absolutely unlikely to derive any partisan political advantage from whatever recommendations the committee made.

I do not know and I do not think anybody knows which major political party will benefit from the implementation of these recommendations by winning the seat in the Northern Territory in the next election. I certainly hope that it will be the member for Solomon, because he does deserve to win it. Over time I expect that the benefit will be pretty equal between the two major political parties. What I do know, however, as someone who has fought partisan politics very hard, is that ultimately Australian politics is founded on playing hard to win within a fundamentally fair system. There were some unintended shortcomings in the electoral system regarding the territories—shortcomings not so much to the detriment of the political parties but to the detriment of achieving fair representation in the House of Representatives for all the people in the states and territories. This bill will remedy this, and future political contests, for all their uncertainties, will be played on a fairer playing field for the people of Australia. I commend the government for its support of the committee's recommendations. The implementation of these recommendations will enhance the integrity and transparency of the determination of representation in the House of Representatives, a matter which is absolutely fundamental in our system of representative democracy. I congratulate the member for Solomon for his efforts, and I commend the bill to the House.

Mr MARTIN FERGUSON (Batman) (11.47 a.m.)—I rise to speak in support of the [Commonwealth Electoral Amendment \(Representation in the House of Representatives\) Bill 2004](#). In doing so I indicate the Labor Party's support and express on behalf of the parliament our appreciation of the committee responsible for bringing forward this bill, because it has sought to attend to the special problem in the Northern Territory in an ethical and responsible way rather than as a short-term political grab, which was the original intent of the bill before the House going to electoral issues in the Northern Territory. I say that because I think it is very important that we pay proper attention to the issue of democracy and the need for proper and fair representation for all Australians. The very nature of the bill before the House is about guaranteeing that integrity in terms of electoral issues into the future. The Northern Territory is entitled to a fair hearing in the Commonwealth parliament, and this bill is about not only a fair hearing for the Northern Territory in the Commonwealth parliament but also a very public statement by this House that, in handling problems which confront us in the Northern Territory, we are not going to be opportunists. We are going to guarantee that very important principles going to the strength of our democracy always prevail.

The bill as it has been put to the parliament is truthfully—and I think it is accepted on all sides of the House—a vast improvement on the bill that was first presented to the House as the means of addressing the issue of Northern Territory representation. The initial bill did little except simply change the Electoral Commissioner's determination that the Northern Terri-

tory should have the benefit of two elected representatives. Having worked in the Northern Territory on and off over an extensive period, I understand the special challenges that confront representatives in the Commonwealth parliament who have responsibility for the Northern Territory. I believe that the initial bill ignored what the Labor Party and a significant number of coalition members believed were practical recommendations arising from the Joint Standing Committee on Electoral Matters' assessment of the proposal to amend the Commonwealth Electoral Act.

The bill, in its original instance, did nothing to address issues associated with the ways such a determination is made, nor did it address the issues associated with data collection used in such determinations, which I believe is fundamental to the debate before the House this morning. There was a welcome wake-up call for all of us, prompted by the opposition, from the Howard government on these matters. The bill that we are now debating satisfies those concerns, and appropriately so. The recommendations of the committee are practical resolutions to ensure that the process of electoral redistributions is more transparent and that the resolutions or outcomes give certainty about the integrity of the process used in determining redistributions in the Commonwealth. But the government—and, more appropriately, the member for Solomon—in drafting the original bill chose only to address the ruling that abolished the seat it currently holds in the Northern Territory. It was about political considerations rather than the integrity of the Commonwealth electoral system, which, as far as I am concerned, must always stand above political considerations.

I believe that the member for Solomon should be grateful to his colleagues on both sides of the chamber for intervening in his wishful attempt to save his political career. Quick political fixes, in terms of the future and strength of our democracy in Australia, are unacceptable. The bill before the House rejects the original proposal by the member for Solomon, and correctly so. Labor's position on this is clear: it is not about interfering in the process of redistributions for political gain—that is not, and should not be, the role of the parliament; it is about setting the right parameters to ensure the integrity of our electoral processes and encouraging fair and equal representation for all Australians.

As I have already mentioned, I believe this goes to the heart of our democracy in Australia and the integrity of our electoral system. While I welcome efforts that strengthen these values, it also relates to the excesses—disguised as entitlements—bestowed upon those of us privileged enough to be given the opportunity to represent our constituents. It gives weight to calls made by me and some of my federal colleagues about the need for transparency in the way that we politicians go about the job we are elected to do and about the need to clean up the issue of parliamentary entitlements—which is also about electoral integrity. I think we will agree that, in order to do our job to the best of our ability, we have to have the resources to do so—we are entitled to have staff to help us with our consultations, we need adequate financial resources to keep constituents informed on policy that affects them and we need to be able to get back and forth from Canberra for parliamentary sittings to ensure that our constituents are represented.

But I want to raise something today which I think is also an important consideration of the bill before the House today on Commonwealth electoral representation, and it goes to the largesse perpetrated in some cases, which I believe is simply beyond comprehension and simply unacceptable to Australian taxpayers. I therefore want to raise fairly and squarely today the

overly generous printing allowance that parliamentarians have an entitlement to. I think it is a disgrace that each and every one of us has a printing allocation of up to \$125,000 a year to spend—that is, members of parliament can spend \$28.25 million each year on printed material. And that is only after the opposition and the Greens joined forces last year to reduce that entitlement from \$150,000 per annum—the limit that the Howard government proposed. In essence, we forced the government to retain the limit at \$125,000. At a time when we are lectured day in and day out about the need to control the budget purse strings and ensure that they are tight, I contend that it is unacceptable that the Howard government allows this entitlement to continue untouched. The printing entitlement is, at best, grossly generous and, at worst, a blatant misappropriation of taxpayers' money—in essence, for the political gain of incumbent members of parliament. We talk about the electoral system. Where is integrity in the parliamentary process when, by way of entitlement, parliamentarians are given such an excessive amount of money to spend at will?

The DEPUTY SPEAKER (Ms Corcoran)—I interrupt the member for Batman and ask him to come back to the bill.

Mr MARTIN FERGUSON—Madam Deputy Speaker, this is related to electoral laws in Australia. It is about time we as members of parliament in debating the integrity of the electoral system in Australia also raised associated issues and the overly generous entitlements which enable us in some ways to rort the electoral system in Australia. This is related to my views on the overgenerous entitlements that we receive as members of parliament such as the gold pass—

The DEPUTY SPEAKER—Is the member for Flinders seeking to ask a question?

Mr Hunt—I am, Madam Deputy Speaker.

The DEPUTY SPEAKER—Is the member for Batman prepared to accept a question?

Mr MARTIN FERGUSON—Yes, Madam Deputy Speaker.

Mr Hunt—My question for the member for Batman is whether or not there are any members of the opposition who used the maximum entitlement in the past year or whether the entire opposition demonstrated its position by refusing to abuse the maximum entitlement.

Mr MARTIN FERGUSON—Firstly, you cannot go beyond the maximum entitlement. But I actually have some figures relating to the use of the entitlement over recent years.

Mr Tollner—Madam Deputy Speaker, I raise a point of order. I have a problem finding any relevance of this at all to the bill we are currently debating. It has to do with the representation of the territories and has nothing to do with printing entitlements.

The DEPUTY SPEAKER—I reminded the member for Batman of this a little while ago. I would like him to come back to the bill. Because I allowed the question, I will give him a minute to answer the question and ask him to then come back to the bill.

Mr MARTIN FERGUSON—This question is very important because it goes to electoral integrity. Let us deal with the use of entitlements, starting with the calendar year 2001. The average spending by members on printing was just under \$98,000. For government members it was just under \$129,000 and for opposition members just over \$62,000. The truth is that in total government MPs in marginal seats spent more than \$5.8 million on printing in 2001, or more than one-quarter of the total printing expenditure across the whole House of Representa-

tives. I add that the extraordinary misuse of this printing entitlement by government MPs is over and above the hefty public funding entitlements of \$1.7 million—we should not forget that it is taxpayers again paying the bills—paid to their parties for those seats, the 24 highest spending seats in the electoral campaign. In essence, it is double dipping. With respect to misuse of these entitlements it is interesting to note that in 2001 the government selectively chose to use this material to the disadvantage of one member of parliament.

The DEPUTY SPEAKER—I ask the member to come back to the bill now, please.

Mr MARTIN FERGUSON—Madam Deputy Speaker, I appreciate questions such as this because it is about a factual debate; it is about the misuse of entitlements. I will continue to raise these issues inside and outside the House in the same way as I will continue to campaign against overly generous entitlements such as the gold pass for retired MPs. It is about time we members of parliament led the campaign to clean up the electoral system in Australia.

The issue I raise about the Northern Territory and the misuse of parliamentary entitlements which are overly generous goes to the very integrity of the bill before the House today because it is about whether or not we have a strong democracy and whether or not taxpayers' money is being misused to undermine the strength of that democracy. I am prepared to take more questions on this because all the facts speak for themselves. It is interesting to note, when you compare expenditure in the calendar year 2001 against expenditure in the calendar year 2002—and I understand why the member opposite is sensitive—

Mr Neville—Madam Deputy Speaker, I was not one of the worst offenders, but that is not the point I raise.

The DEPUTY SPEAKER—Are you asking a question or raising a point of order?

Mr Neville—My point of order is this: you cautioned the member on no fewer than three occasions and he has defied your ruling. I am sure the government does not mind debating the issue in the appropriate debating forum, but this debate is about electoral matters in the Northern Territory.

The DEPUTY SPEAKER—Thank you, member for Hinkler. I did give the member for Batman time to answer the question that was asked. I have now brought him back to the bill and I ask him to stay on the bill.

Mr MARTIN FERGUSON—On that point of order, the title of the bill before the House, which I am entitled to speak on, is the Commonwealth Electoral Amendment (Representation in the House of Representatives) Bill 2004. The issue I have raised actually goes to representation in the House of Representatives and the operation of the electoral system in Australia. I am entitled to raise these issues because the bill is about the Commonwealth electoral system in Australia. That is the way the House has historically operated with respect to debates on the title of a bill. I believe I am totally in order, and I will continue to raise these issues because they are about the integrity of the Commonwealth electoral system.

The issue raised by the question went to expenditure. I have dealt with the average expenditure in the year 2002, and I think taxpayers would be entitled to know this.

Mr Neville—On a point of order, that is the fourth time you have cautioned the member, and he has returned to it. The subtitle of the bill is 'representation in the House of Representatives'. It is clearly associated with the Northern Territory and, perhaps peripherally, with the ACT, but it is certainly not to do with entitlements.

The DEPUTY SPEAKER—The member for Batman has actually drawn a link to the bill; it is very slight. I would ask the member for Batman to assist the chair and come back to the bill.

Mr MARTIN FERGUSON—With respect, I represent the constituency of Batman in the House of Representatives. That is no different from representing a constituency from the Northern Territory or the Australian Capital Territory. The operation of democracy in terms of our entitlements is the same whether we are talking about my entitlements, as the member for Batman, or whether we are talking about a person representing a seat in the Northern Territory or the Australian Capital Territory. That is why it is important, I think, that I draw attention to the average expenditure in the year subsequent to the election in 2001.

The DEPUTY SPEAKER—Member for Batman, this bill is really about the representation of the Northern Territory. I would ask you—

Mr MARTIN FERGUSON—But it is the title of the bill that counts, with all respect, Madam Deputy Speaker. That is the way the House has always operated in debate. It is not related to the Northern Territory. It is related to the Commonwealth electoral amendment—

Mr Tollner—Madam Deputy Speaker, I think the honourable member for Batman is drawing a long bow. There can be no doubt about what this bill is about—no doubt at all. The member for Batman should probably read the bill first—

The DEPUTY SPEAKER—The member for Solomon will resume his seat. Member for Batman, if you could draw your remarks to the Northern Territory, I would appreciate it.

Mr MARTIN FERGUSON—Without a doubt, Madam Deputy Speaker, I understand the importance of this bill. It is about saving the member for Solomon's backside. He was on the outside looking in on the basis of the original determination of whether or not there should be one or two seats in the Northern Territory. I understand his sensitivities to these issues, because he wants to use the entitlements I am talking about to try to guarantee his re-election as the member for Solomon at the forthcoming federal election—which goes to the debate. It is about Commonwealth representation in the House of Representatives and the potential misuse of entitlements, such as printing entitlements, to guarantee that people are returned through the use of those entitlements. That takes me to the average expenditure for 2002. It is interesting to note the huge difference between 2001 and 2002.

Mr Neville—Madam Deputy Speaker, I raise a point of order. The member is clearly defying your ruling, which has been given five times now. I ask that you call him to order.

The DEPUTY SPEAKER—Member for Batman, I appreciate the time you have taken to try to draw the link. I think we have got past that. I would ask you to wind up, please.

Mr MARTIN FERGUSON—I have got three minutes, 17 seconds to wind up—

The DEPUTY SPEAKER—You have got three minutes to talk about the Northern Territory.

Mr MARTIN FERGUSON—I will wind up when it suits me and in accordance with my rights as a member of this House. As I have indicated, this bill is about the integrity of the operation of the Commonwealth electoral system in Australia. I support the determination made by the committee and its recommendations before the chair.

But I must say that, in the operation of the electoral system in Australia, Australian citizens believe there is a huge difference between having access to the proper entitlements while in the parliament to enable us to do our job properly and represent our constituents, and having access to generous and unnecessary entitlements for the purposes of guaranteeing our re-election. There are a range of issues that I will continue to campaign on with respect to reducing those entitlements because I do not think it is appropriate that they exist in the Commonwealth electoral system. This bill is about the integrity of the Commonwealth electoral system. I understand the sensitivities on the other side of the House with respect to exposing this misuse.

Mr Hunt—On a point of order, Madame Deputy Speaker. If the member persists in ignoring your order, could I at least ask if he will answer my question, which is on the topic that he is talking about?

The DEPUTY SPEAKER—The member for Batman is getting closer to the bill. I would appreciate it if he would stay on this side of the narrow line.

Mr MARTIN FERGUSON—If you allow me, I will link it to the question. But I tell you what: I will be wiping the smile off his face if I go through it seat by seat. It makes very interesting reading. It has been released publicly and I will continue to speak on it.

But, as I have said, these issues are important. We have to make sure that in considering bills such as the one before the House today we guarantee the integrity and fairness of the Australian electoral system. Yes, there is a requirement for equity in representation and a need to guarantee proper representation to the people of Australia. But there is also an obligation on the House when considering bills such as the one originally proposed by the member for Solomon to maintain the integrity of that system. It is time that we as politicians in maintaining the integrity of that system front up to the excesses that exist in the system, the benefit of incumbency and the rorts that exist for existing members of parliament. There is an onus on the House to clean up its act and to actually stop those rorts and return to taxpayers some of the money used to pay for those rorts for better purposes. I commend the bill to the House.

Mr HUNT (Flinders) (12.07 p.m.)—I am delighted to rise to speak on the **Commonwealth Electoral Amendment (Representation in the House of Representatives) Bill 2004**, particularly in the presence of my friend and colleague the member for Solomon. Representative democracy is built on three pillars: firstly, on the pillar of transparency—and I will come back to that, hopefully before the member for Batman flees this chamber; secondly, on the basis of representation, which focuses on the question of a right of all to participate and on the capacity for fairness and evenness in the value of that vote across this country; and, thirdly, on the important role of governments to exercise responsiveness. There must be a fair electoral system involving transparency and representation and there must be a responsive government. Those are the elements and the pillars of democracy and this bill deals directly with two of those three pillars. It deals with the question of transparency and it deals with the question of representation.

In looking at the question of transparency I want to note in response to the words of the member for Batman that if he is concerned about financial probity in this House there is a very simple step which he as a member of the shadow cabinet—the alternative government of Australia—could take, and that would be to terminate the Centenary House lease, which is

currently drawing down \$36 million of taxpayers' funding in what is not just a rort but something which skates—

The DEPUTY SPEAKER (Ms Corcoran)—The member for Flinders should come back to the bill.

Mr HUNT—remarkably close to an abuse of the system.

Mr Ripoll—Madame Deputy Speaker, I rise on a point of order. I do not see how Centenary House has any link or relationship to the bill. In the same way that the members of the government were referring to relevance in the previous speaker's contribution, I do not see how this could be in any way relevant at all to the bill before us.

Mr HUNT—I think that is the moral problem you have.

The DEPUTY SPEAKER—The member for Flinders has been asked to come back to the bill.

Mr HUNT—I will address the bill. I just note in passing that the failure to associate Centenary House with representative transparency is a significant moral problem. This bill seeks to amend the Commonwealth Electoral Act 1918. It gives effect to the government's support for the Joint Standing Committee on Electoral Matters inquiry into territorial representation and in particular into representation of both the Northern Territory and the Australian Capital Territory in the House of Representatives. That inquiry focused on three broad recommendations. The first two relate to transparency and certainty, and focus in particular on the process for calculating the representative entitlement for each state and territory in the House of Representatives. The genesis for this bill was the fear that the Northern Territory might be palpably underrepresented; that is what drove the origins of and the thinking and research behind the creation of this bill. The third recommendation which confronted the drafters of this bill was that this bill will go to maintaining the representation of the Northern Territory on the basis of two seats for the forthcoming federal election and term of parliament. It does this for a series of reasons and, in considering those, I want to deal with the bill's background, its importance and some of its core provisions.

Turning to the background to the bill, on 19 February 2003 a determination of the Electoral Commissioner, under the Commonwealth Electoral Act 1918, provisionally reduced the Northern Territory's representation in the House of Representatives from two members to one. The reason that is a problem goes to one of the core elements of adequate representation for a population which is essentially bifurcated between an enormous rural constituency and a concentrated urban constituency—two distinctly different constituencies with thoroughly different needs.

The Electoral Commissioner's decision had a series of challenges about it. Firstly, it did not deal with the question of geographical size and the distinction, as I have noted, between Darwin's urban population and the regional population of the rest of the Northern Territory, with its particularly high Indigenous component and the special needs of that group. Secondly, there was a missing element in terms of factoring in population growth and that the Northern Territory will again be entitled to two seats at the next determination of state and territory entitlements. Thirdly, there was a lacuna—a gap or a hole—in that the Northern Territory's population fell short by 295 people of a second quota to retain its existing two seats.

That gap is easily explicable by citing two factors. Firstly, there was a seasonal blip, or a seasonal change, in the timing of the assessment of the population; and, secondly—and this relates directly to one of the challenges faced with a high Indigenous population—there is a significantly lower rate of return of census figures from the Indigenous population than from the broader population. So the people who were most likely to have been disadvantaged by this ruling would inadvertently—and with no criticism of the Electoral Commissioner—have been the Indigenous population. It is a function of that society, and the challenge that we face, that the Indigenous population is less likely to return census forms. By the very nature of the process there will be gaps. An Indigenous population is free flowing. Its members live in remote and rural parts of Australia and many of them will choose not to return the census, even if they have been dealt with directly.

Under those circumstances, reducing the quota of seats for one particular election would have been inappropriate; it would have actually been a misrepresentation and an underallocation for the Northern Territory against the real numbers of the Indigenous population and Territorians generally. Thirdly, it would have been a one-off move which would have been rectified by the next election in any event. For all of those reasons, there was a problem which needed to be dealt with.

In that situation this bill is important because it achieves the intent of the recommendations of the Joint Standing Committee on Electoral Matters. It does so not just by making specific rulings for the Northern Territory but also by establishing core principles in relation to transparency and representation. In doing that, it ensures that statistics are to be provided by the Australian Statistician for the Electoral Commissioner's determination and that these must be the most recent set of statistics compiled and published in a regular series by the Australian Statistician under the Census and Statistics Act 1905. That removes an existing ambiguity about what comprise the latest statistics of the Commonwealth. Also it includes having statistics in an electronic form, and that is a very important step. With regard to transparency, the Electoral Commissioner must make and publish his or her calculations and any necessary adjustments. They have to make and publish their own calculations within a designated time frame. In that way, the calculations are subject to scrutiny and review. Ultimately, that answers the question about transparency, as the number of representatives that a territory or a state has is fundamental to the degree and quality of representation of the individuals within that territory.

In looking at this bill, I want to return to the beginning. As I set out, for me there are three pillars to the notion of democracy. Firstly, there is adequate representation. Secondly, there is transparency in that process, ensuring that representation is appropriate. Thirdly, there is responsiveness, and that is a general question relating to the way in which governments govern—that is, whether they rule for themselves or for the common good. That third part is not an element of this bill. This bill, the Commonwealth Electoral Amendment (Representation in the House of Representatives) Bill 2004, deals directly with the questions of transparency and representation. For those reasons, I am delighted to commend this bill to the House and to offer my support to my friend and colleague the member for Solomon.

Mr ANDREN (Calare) (12.17 p.m.)—According to the explanatory memorandum to the [Commonwealth Electoral Amendment \(Representation in the House of Representatives\) Bill 2004](#), this legislation removes an ambiguity about which is the latest set of statistics to be

used in determining the number of people in each of the Northern Territory and Australian Capital Territory federal seats. That sounds simple enough, and this bill is being debated in the Main Committee because it is regarded as noncontentious, having been based on a unanimous and multiparty report from the Joint Standing Committee on Electoral Matters.

While I do not oppose the legislation, I wish to point out some potential democratic shortcomings in the outcomes reached. In February 2003 the Australian Electoral Commissioner determined the number of members of the House of Representatives to be chosen by electors in the two territories. He was working to section 48 of the Commonwealth Electoral Act, which determines:

At least one member of the House of Representatives shall be chosen in the Australian Capital Territory and in the Northern Territory ...

The quota for representation in the territories is arrived at by dividing the number of people in each territory by a quota the same as that used to decide the number of seats in the states. According to that formula, South Australia was to have one less seat, while the Northern Territory was also set to lose a seat and return to the status of representation it had prior to the 2001 election. In effect, the current status of one Country Liberal seat and one Labor seat would return to a one-seat territory. This resulted in a flurry of activity, culminating in the inquiry by the committee and the introduction of the so-called Tollner private member's bill to guarantee two House of Representatives seats in the Northern Territory.

According to my understanding of the joint committee report, there was no support for two seats being guaranteed for each of the ACT and the Northern Territory regardless of their population relative to the states. That was, I understand, inherent in the report. There was nothing set in cement; it was to clarify the process and to afford decisions to be made on the most up-to-date information. Again, that is fair enough. The committee also sought to remove the degree of unintended discretion afforded to the Australian Statistician and the Electoral Commissioner in deciding which quarterly population estimates are to be used in the 'latest' statistics of the Commonwealth used to determine state and territory entitlements to House of Representatives seats.

Additionally, though, there is provision for greater error margins in population estimates of the territories. One can understand this in the case of the Northern Territory but I wonder why the ACT should be any different from the state error margin. I presume it is because of the uncertainty of public service tenure or circumstances such as that, but I would suggest that there are marked differences in the demographics, population trends and movements, temporary absenteeism and so on in the Northern Territory vis-a-vis the Australian Capital Territory. I think they are special and different cases and I really wonder about the error margin that is employed in both circumstances.

Some have asserted that the ACT is more entitled to three House of Representative seats than the Northern Territory is to two seats. Based on democratic principles that each vote should have as close to possible equal value, whatever that vote is, then the argument can be made that the ACT is entitled to three seats and the Northern Territory just one, although such an outcome would see 110,000 people in the Northern Territory seat and just under 70,000 in each of the ACT seats. This is significantly more in the case of the Northern Territory and significantly less in the case of the ACT than the average number of electors in House of Representative constituencies in the states.

By interfering with the Electoral Commissioner's assessment of the right to seats in this place, we are risking the politicising of our electoral redistribution process. I hear some say, 'What's new?' While it is certainly not a case of gerrymandering, we have seen instances around Australia in the last century, particularly in Queensland, where gerrymanders have been part and parcel of Australian political life. The electorate, far wiser now perhaps than they were a decade or two ago, are adamant that they want as close to proportional representation as we can achieve.

I am an unwavering proponent of proportional representation in our lower houses as the only way of delivering proper and fair representation to the electorate. This kind of legislation that we are looking at certainly increases representation for the Northern Territory, but how proportional is it vis-a-vis the rest of the nation and how does it compare with that representation we have allocated to the ACT? Would there have been as much will to adjust the formula for setting representation in the territories had the government of the day—coalition or Labor—been faced with the possibility of ensuring that the relevant territory had an extra seat hostile to the political colour of the government of the day? It is an interesting question.

It is interesting also to note a table prepared by Associate Professor Malcolm Mackerras detailing what he sees as the rightful seat allocations should the territory formula be based on the number of electors and not the total population. The number of electors is used in determining federal House of Representative distributions in the states, even though section 24 of the Constitution says the distribution should be made on total population. According to Mackerras, based on the number of electors in each state and territory, New South Wales should be unchanged with 50 seats, Victoria should have one more at 38, Queensland should have one more at 28, Western Australia one less at 14, South Australia should retain its 12 seats, Tasmania is entitled to four and not five House of Representative federal seats, while the ACT should have three and the Northern Territory one based on the way the formula is supposed to work.

I have not checked the mathematics of all that and I do not pretend to totally understand error margins and two standard errors of the net undercount or, indeed, the gross undercount but, if Mackerras's maths are right, we have a democratic problem with this bill. Finally, as an aside, I note the comment from the member for Batman on the bill and the electoral entitlements and note the sensitivity of all members, and I look forward to some policy initiatives from both the opposition and the government in the lead-up to the election—maybe some movement on Centenary House as well, and printing and political donations.

Mr TOLLNER (Solomon) (12.24 p.m.)—I welcome the **Commonwealth Electoral Amendment (Representation in the House of Representatives) Bill 2004**, as do all those in the Northern Territory. The decision last February by the AEC to reduce the level of representation of the Northern Territory from two seats to one in the House of Representatives was a massive blow to everyone in the Territory. It came as hard news for many of us. The member for Kooyong, the Chairman of the Joint Standing Committee on Electoral Matters, and all members of the committee deserve praise for the way they conducted themselves and for their analysis of statistical matters.

My thanks go to all those, from all over Australia, who gave submissions to the committee; to the people from the Northern Territory who attended meetings to give evidence and who made submissions; to the Northern Territory Country Liberal Party leader at the time, Denis

Burke, for his well thought out submission; and to Senator Nigel Scullion for the work that he has been doing in the other place. Special mention deserves to be given to Senator Trish Crossin for the vital evidence she provided to the committee in order for it to make its decision. The Special Minister of State, Eric Abetz, also deserves thanks for bringing the bill on and drafting it in accordance with the findings of the Joint Standing Committee on Electoral Matters.

There is one person I have not mentioned in the long list of people that I have thanked—that is the member for Lingiari. I am disappointed to say that, from the word go, the member for Lingiari is a Territorian who seems to have laid low on this issue. I do not know his reasoning for this, but earlier on he said that, although he had predicted it, the decision by the AEC to remove the Northern Territory's right to have two representatives here in Canberra came as somewhat of a shock. I find that odd: he predicted it and was then shocked when his own prediction came true.

I have worked with the honourable member for Lingiari ever since the decision was made. About 12 months ago I was concerned when I heard him say in a radio interview in Alice Springs that, as far as he was concerned, there was no chance of the Territory retaining two seats. He had given up the ghost and was intending to start campaigning in the seat of Solomon because he believed that the Northern Territory would be brought back to one seat. He also said this morning that he had the idea of introducing a bill similar to my private member's bill, but that, after consideration by the Joint Standing Committee on Electoral Matters, he had changed his mind and realised the error of his thinking. I do not know how the member for Lingiari's logic works on this. Had I not put in a private member's bill, there would have been no inquiry by the Joint Standing Committee on Electoral Matters and it would not have made any decision on whether or not the Northern Territory should have two representatives.

The member for Lingiari made a ludicrous point about thinking of introducing this bill and then changing his mind after the joint committee convinced him that he was wrong. I have heard from members opposite that this has been a 'save Dave' campaign—saving the seat of Solomon. I find that quite remarkable in many ways—firstly, because this is the most marginal seat in Australia after the redistribution. For anyone to believe that the government could somehow save a seat that is the most marginal seat does not bear thinking about. Secondly, all my efforts in this matter have been to save Lingiari. It is Lingiari that needs saving.

I made an oral submission to the Joint Parliamentary Committee on Electoral Matters on 29 August last year. I noted the special nature of the seat of Lingiari, which is that it is the only seat in Australia that has a majority or near majority of Aboriginal constituents. To abolish the only Aboriginal seat in Australia would be a massive blow to Aboriginal Australia. The only seat that comes close to that level of Aboriginal constituents is Kalgoorlie, which has an Aboriginal population of 14 per cent. Leichhardt, Maranoa, Kennedy and Capricornia do not even come close to Kalgoorlie. The seat of Lingiari is a real standout. It is interesting to note that in the inquiry process not once did the member for Lingiari stand up and argue the case for his own constituents.

Mr Billson—He must have been got at by the Labor Party.

Mr TOLLNER—I think he had been got at—by sheer bone-laziness. The member for Lingiari never talked about his own constituents. He never said that his constituents deserved

representation in the House of Representatives. In fact, when speaking to this bill this morning, the member for Lingiari reinforced his view that the Northern Territory should be split down the middle, for whatever reason. He seemed to think that two halves are better than one urbanised electorate versus one electorate predominantly containing Aboriginal constituents. He would want to see the electorate split down the middle, thereby dispersing Aboriginal constituents into the mostly urban white population of Darwin and Palmerston and thereby taking away their voice. That is disgusting. The member for Lingiari has been a sell-out through this whole process. I have said that on other issues in the past. He is not backward in selling out his own constituency.

Throughout this process, as members may recall, the member for Lingiari paid an extended visit to the United States of America. He went over there for three months, observing the UN in action. Goodness knows what he was observing. He was probably observing debates on saving endangered sea slugs or something of that nature—who knows. In fact, the member for Lingiari never set foot in this place in five months when his seat and the representation of Territorians in the federal parliament were under threat. He turned up only in the last couple of weeks, when he said, ‘The member for Solomon was not even around to see the bill tabled.’ I used to have a mate like that. He would turn up when the work was done. We called him Blisters. That is the sort of thing the member for Lingiari does. We could call him Blisters Snowdon—he always turns up when the work is done and then blames everyone else. It is interesting.

It is interesting to hear the people on the other side say that, for some reason or other, I am scared to run an election campaign against the member for Lingiari. You have to be joking. Look at the bloke’s form. It has me beat how he can continue to stay elected with form like that—nicking off to the USA and wanting to divide the Northern Territory down the middle. He has his main office sitting in the middle of my electorate, not his electorate.

Mr Slipper—You’re kidding.

Mr TOLLNER—No. His main office sits in the middle of my electorate. He has three-quarters of his staff working in the middle of Solomon, not in Lingiari, and members opposite say that somehow I am scared to run an election campaign against the member for Lingiari. They have to be joking.

Many speakers this morning have talked about the notion of one vote, one value and how that somehow links to rights and equity for all Australians. I draw members’ attention to the fact that we have never really had one vote, one value in Australia. On that point Mr Snowdon says that the idea of guaranteeing a couple of seats to the Northern Territory is now an outdated concept. I find that surprising, because it is currently in our Constitution. From the date of its inception in 1901, the Federation has recognised that Australia is a large and diverse country and that the principle of one person, one vote would disadvantage and even disenfranchise the large and less populous regions of this great nation. That is visionary. That shows that if we go down this road of one vote, one value all of the power will eventually be tied up in Sydney and Melbourne. I think you would understand, Mr Deputy Speaker Causley, what it is like being in the north and in rural or regional Australia, where we have to fight very hard to have our voices heard in this place.

Ms Roxon—It still has one vote, one value.

Mr TOLLNER—I take the interjection on board. Every state is guaranteed five House of Representatives members. What is not guaranteed is the Northern Territory having any level of representation, and the idea that somehow or other the Northern Territory should not be guaranteed any level of representation seems reprehensible. It seems to be a commonly held view among a lot of people. But I remind the House that back in 1922, when parliament first enacted special legislation to allow the Territory to send a representative to attend the Commonwealth parliament, that person had no right to vote. They could turn up and observe. In 1936, the Commonwealth changed the rules again, when parliament first allowed that member to vote in this chamber, but only on matters directly relating to the ordinances of the Northern Territory. In 1958, the elected member for the Northern Territory was allowed to vote on any proposed law or matter relating solely or principally to the Northern Territory, and then in 1968 the member for the Northern Territory was granted full voting rights. In 1975 we, along with the ACT, were allowed to elect two senators to the upper house, and then in 1978 the Northern Territory was granted self-government by the Commonwealth.

The point I am making is that the Northern Territory has never been treated as a state. We have never been treated equally, as the member for Blair said in his speech. We do have the right to a trial by jury. We are not counted in the same way as other participants in the Federation are counted when it comes to referendums. The Territory simply misses out. My original view, and I will maintain that view, is that the Territory should be guaranteed two seats. I will continue to lobby for it. The Northern Territory is a creature of the Commonwealth. The Commonwealth can make these changes and should make these changes.

Finally, to wind up, I will signal that I will continue to fight for better representation of the Northern Territory. That takes me to the point of statehood. Only when the Northern Territory becomes a state will we have the same rights and responsibilities as all other citizens of Australia. The Commonwealth can do that. The Commonwealth do not have to wait for referendums. They do not have to wait for the people to say, 'We're ready.' The Commonwealth can do it themselves with the stroke of a pen and declare the Northern Territory a state. It is contained in chapter VI, section 121 of the Australian Constitution, which says:

New States may be admitted or established.

121. The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit.

That is something that should happen almost immediately. The Commonwealth should get on with the job and make the Northern Territory a state. In all respects, the Northern Territory operates as if it were a state. There are very few areas in which you can say the Northern Territory does not operate as a state. Since 1988, it has been treated the same financially as the states. I hear constantly people saying, 'Oh, you get so much more in the Northern Territory than the rest of us.' That may or may not be true, but it is the same system of allocating funds that is used Australia wide for all the states. I call on the Commonwealth to make statehood happen in the Northern Territory.

I will conclude by again thanking my colleagues for their support throughout this process, by thanking the opposition for their support of the bill, and by thanking the chairman and all members of the Joint Standing Committee on Electoral Matters, all of those who gave submissions and all of those who support this very worthwhile bill.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (12.43 p.m.)—The government are pleased that we have had this debate on the Commonwealth Electoral Amendment (Representation in the House of Representatives) Bill 2004. The government would like to thank all of those honourable members on both sides of the House for their very strong support for this sensible piece of legislation, which will guarantee for the next election the Northern Territory having two seats in the House of Representatives. I was particularly interested in the contribution made by my good friend and colleague the honourable member for Solomon, who has been an outstanding representative for the northern part of the Northern Territory during the period that he has been in office, since the last election. I can see why the Australian Labor Party were supporting this legislation. They obviously want two seats so that there is some prospect—however limited—that the honourable member for Lingiari might have an opportunity to continue to serve in this place after the next poll. Given the information provided to the House, however, by the member for Solomon, whereby he indicated that I think a substantial portion of the staff of the member for Lingiari happen to be based in an electorate office within the electorate of Solomon, one could understand if the people of Lingiari at the next poll were to choose a representative of the Howard government to represent them in the federal parliament.

It is important not only that Northern Territory representation in this chamber is maintained at two seats at the next election but that there should be more transparency and certainty in the process used for determining the representation for the states and territories. The government would particularly like to thank the Joint Standing Committee on Electoral Matters for their detailed consideration of this matter and for their unanimous report after they inquired into territory representation in the House of Representatives in December 2003. As honourable members would be aware, the government does support all of the recommendations of the committee on these particular matters.

There has been a substantial contribution made to the debate by members on both sides of the House. It was good to see that members in the opposition and the government do in fact support the principles contained in this bill. When I heard that the Electoral Commission, through a calculation, was going to ensure that the Northern Territory had only one seat—by a very small number of voters; I think it was fewer than 300 voters that were going to deprive the Northern Territory of the second seat—I thought it was very logical that the joint standing committee sat down and, in a bipartisan way, worked to achieve an equitable outcome which will ensure that the people of the Northern Territory of Australia continue to be represented by two members in this place.

There will be increased transparency and certainty following the passage of this bill. I noted the comments made by the member for Lingiari, and I am pleased to be able to assure him that the process in the bill will provide certainty and clarity for the determination of representation through the use of the latest published population statistics. That is a very important point. This bill incorporates the government response to the JSCEM report. The bill introduced in February this year only addressed the determination for the Northern Territory. That bill was an effective way to restore two seats for the Northern Territory and to ensure that action by the Australian Electoral Commission since February 2003 was legal. The margin of error calculations proposed were to take account of errors in the population statistics.

The member for Fraser, being as he is a representative of the Australian Capital Territory, was not quite as enthusiastic about the bill as some other members. But he did support the bill. He said that the bill was not fair to the Australian Capital Territory, but he supported the pragmatic solution for the Northern Territory. I want to point out to the member for Fraser, who is not currently in the chamber, that the proposals in the bill on margins of error will apply to both the Northern Territory and the Australian Capital Territory, and the use of the latest statistics applies to all states and territories and introduces fairness to the determination system.

I think all of us, regardless of what side of the parliament we are privileged to represent, do want to see an electoral system with integrity. We want to make sure that, when the votes are tallied on polling day, the party, or parties, declared to be the winner are in fact the people for whom the Australian people voted. It is a basic tenet of democracy that you should have a fair and equitable outcome, and that is why I am particularly pleased to see this bill before the chamber. It fixes up a glitch in the system. Integrity of the electoral system is obviously an ongoing challenge, and the government will have certain bills shortly with respect to that particular matter. This bill addresses a glitch with respect, in particular, to the Northern Territory and the next election. But, as I said in response to the member for Fraser, the bill does apply to both the Australian Capital Territory and the Northern Territory.

The member for Fairfax, my parliamentary neighbour and colleague from the Sunshine Coast in Queensland, spoke on behalf of the bill, and I thank him also for his support. I emphasise in response to the remarks he made in the chamber that the bill introduces clarity and certainty for the entitlement determination with the latest population statistics. It is very important that, when a determination is being made, the latest population statistics are used. In response, also, to his speech, I point out that the bill does not guarantee a minimum of two seats for the Australian Capital Territory and the Northern Territory.

I can understand the very strong advocacy by the member for Solomon on behalf of the Northern Territory; I can understand that he would want the Northern Territory to become a state and he would obviously want increased representation for the people whom he is privileged to represent in this place. I know that he is a very good and effective representative—and I can understand that you are going to speak very strongly on behalf of your constituents. But the matter of statehood for the Northern Territory is some distance down the track. Personally I believe that the Northern Territory will ultimately become a state, but I imagine that the people of the Northern Territory would have to vote for that matter in some sort of referendum. In the most recent opportunity they had, they decided that they did not want to be a state at this stage. But the fact that they are not a state does not diminish the quality of the representation provided for the Northern Territory by the honourable member for Solomon.

The member for Melbourne Ports does support the legislation, but I am a bit disappointed in him because he suggested that he was somehow cynical about the reason for the introduction of this bill. He seemed to suggest that in some way it was designed to advantage the Northern Territory. That is not the case. He obviously will be voting for the legislation because he knows it might give the member for Lingiari a chance of hanging on—because if there were only one electorate in the Northern Territory then the member for Lingiari would no doubt be destined for parliamentary retirement. The member for Melbourne Ports claimed that the ACT should be entitled to three seats. That is a view of the member for Melbourne

Ports which is not necessarily shared by everyone else in this place. But this bill does remove the unintended discretion in relation to statistics used for entitlement calculations and it does provide the government's response to the JSCEM report tabled on 25 March 2004.

The member for Blair spoke very strongly in support of the legislation. He has had substantial involvement in the past in the Northern Territory and is well qualified to comment on the Northern Territory. I understand also that he spoke very highly of the work of the honourable member for Solomon in the Northern Territory. The member for Blair is clearly a very erudite and keen observer of the situation there.

On behalf of the government, I would particularly like to compliment the chairman of the committee, the honourable member for Kooyong. His committee dealt with very complex and technical issues. The fact that the committee was able to achieve unanimous outcome does speak very well not only of the virtue of the matters contained in this bill but also of the willingness of members on both sides to sit down. It is also proof positive of the effective chairmanship of the honourable member for Kooyong.

The member for Batman could not resist the temptation to introduce a tiny bit of politics; he tried to criticise the government over the previous bill. I want the member for Batman to understand that the government has given consideration to all of the issues raised by the committee and this bill is a comprehensive response. The member for Flinders also spoke very strongly in favour of the bill. The member for Calare was less enthusiastic—but the member for Calare is not enthusiastic about a lot of things the government or the opposition seek to achieve, although he usually votes with the opposition, I note, in most divisions in the House of Representatives.

The committee unanimously recommended that the Electoral Commissioner's determination of February 2003 be set aside by government legislation to the extent that it applies to the Northern Territory. The committee also recommended that the Commonwealth Electoral Act 1918—the Electoral Act—be amended to provide that the Electoral Commissioner use the latest published population statistics in making his calculations, publish his calculations and any relevant adjustments within a certain time period and take account of the margin of error in these statistics when calculating the representation of the Australian Capital Territory and the Northern Territory.

The government considers the most effective way to implement the committee's recommendations is through legislative amendments to the Electoral Act. These amendments will not only provide greater transparency and certainty to the Electoral Commissioner's determination processes but also set aside the Electoral Commissioner's determination of February 2003 to the extent it applies to the Northern Territory and revert to the Electoral Commissioner's 1999 determination that provides two seats for the Northern Territory. The legislation will ensure that actions taken by the Australian Electoral Commission since February 2003 for enrolments in the Northern Territory are legal. Upon commencement of the legislation, two divisions will be created for the Northern Territory. The Australian Electoral Commission has advised there will be no change in the boundaries of the current divisions of Lingiari and Solomon. Determination of state and territory representation in this chamber after the next election will be made in accordance with the provisions of the Commonwealth Electoral Act. I thank members for their contributions and I commend this bill to the chamber.

Question agreed to.

MAIN COMMITTEE

Bill read a second time.

Ordered that the bill be reported to the House without amendment.

LAW AND JUSTICE LEGISLATION AMENDMENT BILL 2004

Second Reading

Debate resumed from 24 March, on motion by **Mr Ruddock**:

That this bill be now read a second time.

Ms ROXON (Gellibrand) (12.55 p.m.)—I would like to speak briefly on the **Law and Justice Legislation Amendment Bill 2004** and indicate Labor's support for it. Essentially this bill is a tidying-up piece of legislation. It amends 22 acts and corrects minor drafting errors—updates references where there have been changes of names of organisations that are referred to. I am assured by the Attorney that it increases efficiencies and reflects current practices. Despite having some pride that I can normally stretch myself to a little more creativity than the Attorney, I think in this instance his page-and-a-half in speaking on this bill will be significantly longer than I can manage to speak on it given that there is very little controversy and it is obviously important that this parliament updates its acts as required and ensures that any inconsistencies, out-of-date provisions or drafting errors are corrected. Labor certainly supports this bill.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (12.57 p.m.)—At the outset I would like to thank the opposition, in particular the honourable member for Gellibrand, for their support of the **Law and Justice Legislation Amendment Bill 2004**, which is an important step forward. The bill will amend a number of acts relating to law and justice. The amendments correct minor drafting errors, clarify the operation of certain provisions, update references to organisations and other acts, and update legislation to increase efficiencies and reflect current practices.

The amendments correct cross-references, remove redundant references to organisations and courts that no longer exist or are no longer relevant to Australia, update definitions and remove spent provisions. The bill also includes amendments that improve efficiencies for Australian diplomatic and consular missions overseas, the Australian Government Solicitor and the Federal Court. Other amendments update legislation to reflect current practices in the Aboriginal and Torres Strait Islander Commission and the National Native Title Tribunal. This is a non-controversial bill, which I commend to the chamber.

Question agreed to.

Bill read a second time.

Ordered that the bill be reported to the House without amendment.

Sitting suspended from 12.58 p.m. to 4.30 p.m.

BUSINESS

Rearrangement

Mr BALDWIN (Paterson) (4.30 p.m.)—by leave—I move:

That consideration of government business order of the day No. 3 be postponed until the next sitting.

Question agreed to.

AUSTRALIAN DEFENCE FORCE: DEPLOYMENT

Debate resumed from 30 March, on motion by **Mr Abbott**:

That the House take note of the paper.

Mr SNOWDON (Lingiari) (4.31 p.m.)—First, let me say how pleased I am to be able to participate in this debate. I remind members that in effect we are taking note of the Prime Minister's motion to the House which was voted upon in the chamber yesterday. There are two parts to the motion. The first part of the motion is:

That this House:

(1) expresses its continued support for and confidence in the 850 Australian Defence Force personnel currently deployed in or around Iraq and records its deep appreciation for the outstanding professionalism they have displayed in carrying out their duties;

The second part is that the House:

(2) is of the opinion that no elements of this contingent of Australian Defence Force personnel should be withdrawn until their respective tasks have been completed and that no arbitrary times should be set for such withdrawal.

Madam Deputy Speaker Gambaro, you will recall that there was a vote on these matters in the main chamber yesterday, and that the first part of the motion was passed, I think unanimously, by the chamber. I think it is important that we record that that support goes to those 850 Australian Defence Force personnel who are currently working on our behalf in Iraq. I say that because at the time we set out on this adventure—misadventure in many respects—I was one of those who, along with my colleagues in the Labor Party, opposed this war. I did so knowing that we were sending Australian Defence Force personnel to this conflict on our behalf, and we stated unequivocally then, as we state now, that, despite our concerns about the reasons for this war, despite the fact that we may have opposed it in the first instance, we recognise our responsibility to give absolute support to Australian Defence Force personnel who are operating in Iraq under the instructions and policies of the government. Again, despite the concerns many of us have about the ongoing nature of this conflict and our part now as an occupying force in Iraq, we want to make sure that those Defence Force personnel know that they have the full support of the Australian community and of the Australian parliament and that we recognise the enormous contribution they are making. Whether or not we agree with the decisions which have been made by the government, we cannot but support and take great pride in the work that these personnel are doing.

However, the opposition opposed the second part of the motion, and I will speak about that in a moment. Before I do, I want to move an amendment. The amendment is that at the end of the motion we add 'and the Prime Minister's and Leader of the Opposition's speeches of 30 March 2004 to the Prime Minister's motion relating to ADF personnel in or around Iraq'.

The DEPUTY SPEAKER (Ms Gambaro)—The member can continue his speech and then propose any changes at the end of his speech, when I will call for a seconder.

Mr SNOWDON—I am conscious of the Whip, Madam Deputy Speaker, who may want to leave the chamber. Nevertheless, my intention is to ensure that we can debate the amendment moved by the member for Werriwa, the Leader of the Opposition, to the motion yesterday. I remind the chamber of what that said. He moved:

That paragraph (2) of the motion be omitted and the following paragraph be substituted:

- (2) is of the opinion that:
- (a) Australia's international security policy should have as its principal priorities:
 - (i) the on-going war against terrorism;
 - (ii) enhancing the security and stability of our immediate region; and
 - (iii) the protection of Australians both at home and overseas;
 - (b) any Australian Government committing Australian forces overseas should have a defined exit strategy for the eventual withdrawal of those forces;
 - (c) the Howard Government has previously provided public undertakings to the Australian people ruling out a post-war Australian military commitment in Iraq altogether or else limiting that commitment to months, not years;
 - (d) Australian military forces in Iraq should be withdrawn from that country as soon as practicable once Australia's responsibilities as an Occupying Power have been discharged with the intention of returning our forces to Australia by the end of 2004;
 - (e) Australia should continue to provide strong levels of humanitarian assistance and economic reconstruction assistance to the Iraqi people for the rebuilding of the Iraqi nation; and
 - (f) all members of this Parliament express their unqualified support for the courage and professionalism of the members of the Australian Defence Force deployed to Iraq and the surrounding region.

I confirm again the opposition's view about this matter, but I do want to put some context to this debate. In the United States today the families of victims of the September 11 terrorist attack are angry. On each day that the independent commission investigating the attack sits they learn more about the failure of their government to respond appropriately to the real danger of international terrorism. Five hundred and ninety-four American soldiers have died in Iraq, and their families are also learning the painful truths about what that war that took their loved ones lives was all about. I want to record here our thanks that no Australian Defence Force personnel have been harmed while on duty in Iraq. For that we give great thanks, and we pray that none are harmed in the future.

When I spoke in this debate on 18 March 2003 one of the issues I, and many others, warned about then was the fact that Australia's involvement in this war was wrong. It was based on a series of lies. That has been confirmed a hundredfold over the last 12 months. But the war was not only based on a series of lies, it also presented a threat to Australia. It presented a threat because of the threat of terrorism that would emerge as a result of Australia's involvement in this exercise in Iraq. That has proven to be correct, much to our disappointment.

It is of concern to me that we now have the government wanting to maintain a commitment of our troops in Iraq on the pretext that, somehow or other, if we get them to come home we are adding to the terrorist threat to Australia. Clearly nothing could be further from the truth. The fact is that we entered this debacle in the first instance not for the purpose of regime change but because of weapons of mass destruction, because of the apparent relationship between Saddam Hussein and terrorism, and because of our alliance with the United States. They were the three reasons we entered Iraq. It was not because we wanted regime change. But we have found no weapons of mass destruction and no concrete link between Saddam Hussein and al-Qaeda. So the only reason we are in Iraq is because of our alliance with the United States.

For 20 months now the government have brazenly lied to the Australian public about nearly every aspect of this war. They have lied about the reasons for going to war, they have lied about the intelligence surrounding weapons that were not actually there, and they have lied about the bogus connection between Iraq, al-Qaeda and terrorism. They have lied about the consequences of the war for the safety of Australians, and they have lied about when they will bring Australian personnel out of this American excursion on the other side of the world. We have yet to be given a decent reason for why Australian Defence Force personnel were sent there in the first instance. There has been no apology from the government for telling us that they were going for these reasons when clearly they were not. Whatever the reasons were, the war had nothing to do with increasing global security or increasing the security of Australians. It was all about other things. The war on terrorism has been left to splutter along without the full focus of Australia, the United States and Great Britain, whose intelligence and military resources have been focused on this Middle Eastern misadventure.

For this government the war in Iraq has become nothing more than a domestic propaganda campaign, and we have seen that writ large again this afternoon and yesterday. Last week they enlisted a new ally in their continuing political campaign to misinform the Australian public. I was very disappointed that the US Ambassador, Tom Schieffer, should enter an Australian debate about Australian interests in such a partisan and even, I think, mischievous way. That is what our government has effectively resorted to: enlisting a foreign government—in this case the ambassador of our closest ally—as a campaign resource in an election year. I can understand it in a way. Both the US administration and the Australian government are having trouble explaining their dishonesty to their respective constituencies.

I was in the United States for three months last year, and let there be no doubt about it: there is a very virile debate about the foreign policy of the United States and the war in Iraq—far more virile than happens in this country. Indeed, if we embark on the debate in this country we are called un-Australian. At least that does not happen in the United States. What we know about Ambassador Schieffer is that he is a good friend of President Bush. He is not like Australian ambassadors, who are not political appointees in the same way as he is. He is a direct political appointee. Last week, he made the following comments on Labor's considered policy on the withdrawal of Australian troops from Iraq. He said:

Just to summarily say we are going to pull Australians out of Iraq, I think would be very short-sighted and very troubling.

Perhaps Mr Schieffer, like the Australian Prime Minister, the Minister for Defence and the Minister for Foreign Affairs, was not aware of the Australian Labor Party's policy on the withdrawal of troops from Iraq. That policy has been made very clear—and it was made plain again today in the House. It is the result of a caucus resolution on 18 March last year, a second shadow ministry decision on 24 March last year, and a third shadow ministry decision on 12 May last year. Then the shadow foreign minister, Kevin Rudd, came back from Baghdad and made statements on 13 and 14 November last year, about our policy on the withdrawal of troops. It is very clear what our position is. But somehow or other, even though we have had it on the books and it has been in the public domain for 12 months, now the United States Ambassador tries to intervene in the debate and leaves town.

If Ambassador Schieffer wants to be an issue in the next election, he should tell us. The Australian-American alliance is very dear to the Australian Labor Party. The foundation of

that alliance lies in the wartime Prime Minister's plea to the United States. We regard that alliance as sacrosanct, but that does not mean that we cannot question the American ambassador when he seeks to intervene in Australian domestic politics.

I cannot believe that we are seeing this charade that has been going on this afternoon in the main chamber, about whether or not defence briefings were given to the Leader of the Opposition. The Australian government, the Australian Prime Minister and the Australian defence minister have used and abused Australian public servants and Australian defence personnel, on an ongoing basis, for their own crude, base political purposes, and I am most concerned that this should continue to be the case.

We know that the case for going to war that was made by the government in March last year, prior to sending our troops, was fallacious. That is now clearly a matter of public record. We know there were no weapons of mass destruction to be found, we know there was no direct link between al-Qaeda and Saddam Hussein, and we know that on 1 May last year, George W. Bush, the President of the United States, declared that the war was over. I would have thought that, if the war was over, our troops could have come home. That has not been the case, because we have responsibilities as an occupying power. Those will finish on 30 June, and there will be a transfer to a new sovereign government on 1 July. Surely that is an appropriate time for us to look at whether or not that is the date when we can bring troops home, or if sometime in the near future—by Christmas—they could come home. I would not have thought that would be something beyond the wit and wisdom of this nation.

We know already that the government are planning to bring home people who are involved at the airports, directing aircraft out of Baghdad. We know that they have that on the books. I understand that they are planning to bring them home by the end of May. They are already planning this withdrawal, yet they continue to attack the Labor Party for having a view about the withdrawal of those troops, all the time telling the Australian population that this war was worth while. It was worth while, they say, because it got rid of Saddam Hussein. Never mind that that was not the principal reason for which the war was undertaken—indeed it did not even register as one of the reasons for the Prime Minister's wanting to take us to war; in fact, he denied that he would ever do it on that basis.

Of course, the other casualty has been the United Nations. Unfortunately, time does not permit me to address that issue. But we do know that, despite the fallacious way in which the government dealt with the United Nations last year, they now want the United Nations back in because they understand the folly of their behaviour. They know that the only way to get a long-term solution to the problem of Iraq is through the multilateral presence of the United Nations and by the agreement of the nations across the world, not a quartet—not the United States, Great Britain, Australia and Poland, the original invading powers. The first part of this motion we wholeheartedly endorse; the second part of the Prime Minister's motion we clearly oppose. I move:

That the following words be added at the end of the motion:

“and the Prime Minister's and Leader of the Opposition's speech of 30 March 2004 to the Prime Minister's motion relating to ADF personnel in or around Iraq”

The DEPUTY SPEAKER (Ms Gambaro)—Is the amendment seconded?

Mr Quick—I second the motion and reserve my right to speak.

Mr BALDWIN (Paterson) (4.46 p.m.)—I rise to speak on the motion. In the first instance I want to put my support behind the almost 2,000 Australian defence personnel who currently serve in seven peacekeeping and three other defence operations throughout the world. The jobs that they do are vital to delivering stability to countries that have never had such stability. They train for many years to undertake such activities and, whilst deployment is hard, the feedback I get from my defence constituents is that they are enjoying the challenge. They are proud to serve Australia and to contribute to the rebuilding of nations. Second, I condemn the ‘free-form foreign policy’ development by the Leader of the Opposition in his public statement that he will remove all troops from Iraq by Christmas.

The Leader of the Opposition’s comments are, at the least, ill-informed and, at the worst, have the potential to put our service men and women in Iraq, and Australians at home, at risk. The evolution of the comments by the Leader of the Opposition also points to a dangerous weakness in his ability to stand by his own decisions and established Labor Party policy. This ‘free-form policy development’, is more about column inches than it is about the security of Australia. In fact, this is the hardest speech I have had to write, simply because the Leader of the Opposition’s position on this issue keeps changing; he has more positions on this issue than the Karma Sutra.

RAAF Base Williamtown is located in Paterson, and as such I have the special privilege of knowing many current and former defence personnel.

Mr Snowden interjecting—

The DEPUTY SPEAKER—The member for Lingiari was heard in silence.

Mr BALDWIN—RAAF Base Williamtown supports many personnel, including pilots, ground staff, air traffic controllers, ground patrollers, radar operators, and administration, catering and cleaning staff. Most of the personnel have families who work and live in my electorate. In February this year, 300 new personnel for Project Wedgetail were welcomed to the Williamtown area by defence minister Robert Hill.

About six weeks ago, the father of a sergeant who is currently serving in Iraq visited my office and requested a flag for his son Graham. Graham had asked his dad to get the flag because he wanted a photograph in Iraq with the Australian flag. Let’s face it, he is a proud Australian. My office sent the flag, and recently I received a thank you with a picture attachment of Graham with his Australian flag proudly draped over his shoulders. He held up a sign which said ‘doing it for the people of Port Stephens and Anna Bay’. Graham is the human face of the 850 Australians in Iraq, many of whom are from Williamtown, who are doing it for the people of Australia. We are proud of them all. Every morning when they put on their uniforms, clip on their identity cards and attach a camouflage version of the Australian flag to their upper arm, they are doing it for the people of their part of Australia. Graham expressed gratitude for my support. In his email he wrote:

You really feel proud to be an Aussie when you are over here doing it, but it is the support you get from people (at home) that makes you remember what a great country we live in.

They are proud of what they have been doing, and we are proud that they are doing it. I am particularly proud that so many people come from Williamtown and Port Stephens. The 850 Defence Force personnel deployed in Operation Catalyst undertake a range of tasks which will help to stabilise Iraq and provide a foundation for a government which was destroyed

under the fallen dictator, Saddam Hussein. There are 150 personnel providing air cargo and ground support services, 80 RAAF personnel providing air traffic control and support at Baghdad airport, 90 personnel providing protection for Australian government staff working in Baghdad, 90 personnel contributing to coalition headquarters logistics and communications, one temporary military liaison officer who works with the civilian population, 160 personnel conducting maritime patrol operations, a 12-person Royal Australian Navy training team training sailors for the Iraqi coastal defence force and 53 Army trainers training the Iraqi armed forces. Another 1,150 Defence personnel are in nine other defence operations throughout the world. Apart from Operation Catalyst in Iraq, we have Operation Citadel in East Timor; Operation Slipper in the Middle East; Operation Anode in the Solomon Islands; Operation Pomelo in Eritrea and Ethiopia; Operation Paladin, to help the peace process between Syria, Lebanon and Israel; Operation Mazurka in the Sinai, to assist with peace processes between Egypt and Israel; and Operation Palate in Afghanistan. Closer to home, operations Mistral, Cranberry and Relex II secure our region and protect Australia's border.

This information is available from the Defence web site. There is nothing secret about the information I have here—it is up there for the whole world to see. You do not need a briefing from Defence or Foreign Affairs to find out about the seven peacekeeping operations and three border protection operations currently under way throughout the world. All you need to do is tap into www.defence.gov.au and you can get a basic idea of the role of Australia's Defence personnel overseas. The Leader of the Opposition would know, just by looking at the Defence web site, that the 850 defence personnel based in Iraq undertake a range of specialist activities which are vital to the rebuilding of Iraq. The work is so vital that Labor's foreign affairs spokesman, the member Griffith, on his return from Iraq last November, wrote to the Prime Minister, stating:

... now that the regime change has occurred in Baghdad, it is the opposition's view that it is now the responsibility of all people of goodwill, both in this country and beyond, to put their shoulder to the wheel in an effort to build a new Iraq.

The member for Griffith has seen what the troops are doing and he understands that there is a lot of work to do to restore Iraq to a semblance of stability before we withdraw the troops. But the Leader of the Opposition has not taken a briefing from the Department of Foreign Affairs and Trade on this matter. As late as last week, Foreign Minister Downer offered a briefing to the Leader of the Opposition but this was not accepted.

I mentioned that this speech was hard to write because the Leader of the Opposition's free-form defence and foreign affairs policy kept evolving—or revolving. Today in the *Australian* I read the headline, 'Latham "sexed up" Iraq brief'. Mr Latham has since denied that he 'sexed up' his briefings. I find it hard to believe that he has been briefed, because he would not be making such ill-informed statements had he known even the basic information on the Defence web site. He is talking with authority about a subject on which he has done no research and taken no briefing, and his ignorance is obvious.

In a radio interview with Mike Carlton on 2UE last Tuesday, the Leader of the Opposition said that a Labor government would bring Australia's troops home 'when they've finished their responsibility for the postwar reconstruction'. After two more questions, this policy was changed to:

I am hoping that by the end of the year Australian troops will be back here for the defence of Australia, having discharged their international responsibilities ...

After another two questions, the Leader of the Opposition said:

... we would be hoping to have them back by Christmas, certainly.

It was when Mike Carlton—the interviewer—corrected the Leader of the Opposition on the fact that the ANZUS Treaty was invoked by the Prime Minister after September 11 that I knew the Leader of the Opposition is dangerously ignorant and erratic. You would think that, when we have seven peacekeeping operations and three border protection operations with 2,000 Australians deployed, the Leader of the Opposition would take the time to get his head around the facts on what Australia is doing in terms of national security. Does the revolving ‘bring them home for Christmas’ policy apply to the other six peacekeeping operations? The most scathing attack on the member for Werriwa has come from Piers Akerman of the *Daily Telegraph*. In his column yesterday, Tuesday, 30 April 2004, Mr Akerman said:

Last Tuesday however he reverted to the feral form familiar to his long-suffering former constituents in the city of Liverpool and started firing from the lip on the critical question of the timetable for the withdrawal of Australian troops in Iraq.

Almost every day since, he has altered his position in an alarming fashion.

But let’s face it: his mentor is Gough Whitlam, the man with the grand plans and great visions but no eye for detail. Tom Uren, cabinet minister in the Whitlam regime, on page 3 of his autobiography said about the Indonesian annexure of East Timor:

... in the case of East Timor, we owe a great moral debt to the people whose rights we failed to defend.

Mr Uren is a serious man who served in World War II. In his testimony to the hearings on East Timor by parliament in 1999-2000, Mr Uren said that there was no discussion in cabinet of Balibo or East Timor. We now know that Gough Whitlam did not see a role for Australia in defending East Timor’s self-determination. He left them to the mercy of Portugal and Indonesia. Will Gough Whitlam’s staunch and sometimes embarrassing support for the invasion of East Timor be channelled through his surrogate son? And are the 450 peacekeepers currently in that country also to come home by Christmas? Compare Labor’s history on East Timor with that of the leadership of Prime Minister Howard when he sent troops in in 1999 to deliver self-determination to East Timor. Mr Akerman wrote:

Mr Latham didn’t consult a single soul in his own party when he dumped the policy that Australia should honour its responsibilities and obligations to the Iraqi people.

But the Leader of the Opposition probably took advice outside the Labor Party. I cannot help but wonder about this new policy that comes after the opposition leader’s recent trip to the Styx Forest in Tasmania. Did his idea of bringing the troops home by Christmas develop in the middle of an old-growth forest in Tasmania with Greens leader Bob Brown? In December last year Senator Brown gave a 10-point plan to Mark Latham, and one of the key points was: end Australia’s involvement in the war in Iraq by bringing our troops home for Christmas. I suspect that Australia’s national security has become a negotiating chip in the preference deal between the Greens and Labor. After that visit, Senator Brown suddenly decided, as the Leader of the Opposition’s best friend, ‘I believe Mark Latham is the Prime Minister in waiting.’ Dirty deals done in the Styx! I see in the Leader of the Opposition not only political opportunism but also shades of Whitlam.

And, if Piers Akerman is right, there are not many Labor frontbenchers who agree with the Leader of the Opposition. What does Kim Beazley think about Labor's new foreign policy? He has previously been supportive of Australia's role in rebuilding Iraq. According to Mr Ackerman of the *Daily Telegraph*, he has been told by Labor frontbenchers that the Leader of the Opposition 'gets a real buzz out of being on the wild side but talk to him about long-term policy directions and his eyes glaze over'. We do not need free-form foreign policy development when it comes to national security; we need a grounded sensible leader at the helm to make decisions and stick to them. If the unnamed frontbencher thinks that they will be able to control the member for Werriwa if he becomes Prime Minister, I ask them why he is not under control now.

The Leader of the Opposition is uncontrollable. He does not consult with his frontbench colleagues and he ignores the advice of people like the member for Griffith, who is experienced and has taken the time to visit Iraq and see for himself what defence personnel are doing. We are not talking about reading to children now; we are talking about national security and foreign affairs. Why is the advice of Mem Fox more vital to the development of a reading policy than the advice of the Department of Foreign Affairs and Trade when developing a national security policy for Australia—or a peacekeeping policy or a counter-terrorist policy?

It is a sticky relationship that the Leader of the Opposition has with fact and fantasy. The Leader of the Opposition is dangerously ignorant of the facts, and he is putting Australia and Australians at risk. There are only two approaches to the task in Iraq now, and that is to see things through and finish the job. In closing, as I said at the beginning of my speech, I am extremely proud of my fellow Australians who are overseas, not only in Iraq but also in all efforts, defending democracy and making sure that governments are stable in areas where they are deployed.

Mr GIBBONS (Bendigo) (4.59 p.m.)—This motion was initially introduced by the Prime Minister in two parts. The first part was to express support for the Australian Defence Force personnel deployed in and around Iraq. I want to put on the public record on behalf of the people of Bendigo and central Victoria our sincere appreciation for the ADF, for their courage and professionalism in Iraq and the Middle East. They have earned and deserve the widest acclaim from the Australian people. The second part of the motion was an attempt to wedge Labor into a position where the government could use its normal tactics of fear and smear to politicise important national security issues to suit the government's agenda and to hide its monumental incompetence in its Iraq policy. The motion was designed to wedge Labor yet again because panic has set in in the government ranks.

The Howard government has constantly tried to paint Labor as soft on terrorism and as appeasers of Osama bin Laden. We, and most Australians, find that extremely offensive. The government is now trying to make the war on Iraq a terrorism issue, to cover up for the lack of weapons of mass destruction. The government has dropped the ball on the war against terrorism by retaining military personnel in Iraq and withdrawing all but one solitary military officer from the real war on terror, in Afghanistan. I hope his name is Rambo, for his sake. The government is soft on terrorism when it suits its agenda of sycophantic crawling to the belligerent elements of the current Bush administration.

Labor's 'bring home the troops' position is entirely consistent with our Iraq war policy and takes into account Australia's moral and legal responsibilities. We are almost into April. The

interim government will be appointed in Iraq in June, up to three months away. Labor's position to bring home the troops by Christmas 2004 is another nine months away and six months after the Iraq interim government takes over. Unless Bush and the Prime Minister have decided to postpone Christmas, it is a logical commitment to bring the majority of our military personnel home by the end of December 2004. After all, the Prime Minister has stated that our commitment in Iraq would be months rather than years. This should be more than enough time to discharge our legal and, indeed, moral obligations.

Obviously, there will be a need to retain an appropriate security force in Iraq, as is the normal situation in other countries, to protect Australian nationals at the embassy and those who are assisting in the rebuilding process. Labor recognises that we have an obligation to do that. But Labor strongly believe that we should bring the majority of our troops home by Christmas 2004. Our military forces should not have to pay the price of remaining in Iraq because of the Howard government's dishonesty and incompetence in getting the Iraq situation so comprehensively wrong. Our military forces should not have to pay the price for an Australian government that did not have the backbone to stand up to the extremist elements of the current US administration, who used a war on terror scenario to justify an attack on Iraq because of the paranoia of the neoconservatives that dominate the Bush administration.

Labor founded the alliance with the United States. Labor support the alliance. Why? Because it is in our national interest. But it is an equal partnership. Labor will never allow the reactionary elements of some US administrations to dictate and dominate this partnership. We will never be subservient to the paranoia and hate like that which drives the neoconservatives behind the Bush administration.

The second part of this motion is directed not towards the security of Iraq but towards the security of the Liberal and National parties. It is another mark of the failure of this government's foreign and defence policies. It is the panicked creation of a government that is on the nose and hopefully on the way out. It is another instalment of the strategy of wedge politics that this government and other right wing governments around the world have pursued in order to exploit global terrorism for their own miserable party political advantage. They do this by trying to portray themselves as the only true defenders of the nations against terrorism and smearing other parties as 'soft on terrorism' and, even, agents of terrorism.

This is just a recycling of the propaganda war of the now disappeared Cold War. In fact, it is a classic example of history repeating itself. During the Cold War, right wing parties, like the Liberals and Nationals in Australia and the Republicans in the US, manufactured a phoney split in their own nations over loyalty and patriotism, a tactic that is always the giveaway badge of right wing party opportunists. They tried to force all foreign affairs and defence issues into their straitjacket of 'reds versus the rest' and 'us versus them'. They painted themselves as champions against communism and other parties as soft on communism.

This is how the Liberals and Nationals in Australia tried to manipulate the national political agenda well into the 1970s. They claimed that the only real issue confronting Australia was security, that this was under threat from the red menace—Russia, China and communism—that the only answer was military might and that this could only be supplied by the United States. The conservatives in Australia demanded that Australia kowtow to the United States, and they attacked all who where not as soft on the US alliance and soft on security. This is the obsolete world in which our reactionary Prime Minister served his political apprenticeship

within the Liberal Party. It is the world that he has tried to artificially resuscitate for the last seven years.

In earlier days, the conservatives were propped up by the anticommunist DLP. These days, the Prime Minister pitches his propaganda line with a close eye on the race obsessions of the One Nation party, a party whose dogmas and fortunes he originally did much to encourage. He has perverted his own party and the nation's political thinking to resuscitate the race obsessions of the White Australia Policy, while always denying it and concealing it. Is there anything that he tells the truth about? This Prime Minister will only tell the truth when a lie will not fit.

So what do we have today in Australia? We do not have a government with a foreign policy for Australia, a defence policy or a policy of dealing with terrorism. We have a one-man government that has set out to resurrect the kinds of obsessions exploited during the Cold War and that seeks to manipulate the public solely for its own political survival. As far as Australia is concerned, the Iraq war is a John Howard war. With this Prime Minister it was always a war of untruths and a war cooked up by perpetrators of untruths. It has, in fact, been a war on truth. The Prime Minister told us the war would make us safer; it did not. He told us Iraq had weapons of mass destruction; they did not. He wanted us to believe that Saddam Hussein was embedded with Osama bin Laden and that he was advancing global terrorism; he was not. He told us that Saddam Hussein was a dictator—but we already knew that. He also told us that the war was legal and wanted by the Security Council; it was neither.

What have we seen since the war of aggression by President Bush and Prime Minister Howard against Iraq? We have a nation that is shattered by the bombing and the invasion. Suddenly the Prime Minister is in favour of nation building in Iraq—that is, repairing the nation that he helped shatter. He wants us to keep our troops there indefinitely under that pretext: nation building. This is not reconstruction and redevelopment and a world of peace like Australia had with the Snowy Mountains Hydro-Electric Scheme or, more recently, with the Adelaide to Alice Springs rail line. Rebuilding in Iraq is rebuilding in a state of continuing and ongoing war. The forces in Iraq that continue to fight with whatever means at their disposal against America and its allies in Iraq are able to go on inflicting casualties and destruction. The longer the US and its allies stay there, the greater is the danger that the resistance they have provoked will continue and increase. It looks like a rerun of the US folly in Vietnam, where it got drawn deeper and deeper until finally all the fighting failed and it had to withdraw. It then tried the face-saving disaster of Vietnamisation, changing the colour of the corpses and handing the fighting over to a Vietnamese army of its own creation.

America will have a government in Iraq that is doing its bidding and that will be seen by many as doing its bidding for America's interests. This is in a region where nationalism is a potent force and in a country with a history of struggle for independence. Also, the United States has attracted more animosity from within the Arab and Muslim world for its illegal attack on Iraq—its invasion and its continuing military occupation. Far from reducing the danger of global terrorism, the President of the United States has engendered a new level of hostility and resentment towards America among the kinds of people who are recruited by Osama bin Laden and other al-Qaeda operatives.

Are nations that have backed the US in Iraq safer for having done so? No. The former government of Spain last year egged on the United States and Britain to attack Iraq. It sent forces

to Iraq, despite the massive opposition of the Spanish population to buying into America's war on Iraq. That government played global terrorism as a political card and falsely tried to portray its own native extremist group, the Basque separatists, as an agent of al-Qaeda. A few weeks ago there was a horrific terrorist attack on Spain. The Spanish voters voted their pro-invasion government out and elected a new government, a socialist government committed to bringing the Spanish troops home and to making the Spanish homeland safer.

This motion is supposed to be about expressing appreciation to the ADF and dealing with terrorism and security, but in reality the US invasion of Iraq has turned out to be what critics warned it would be: both a new stimulus to terrorism and a diversion from the war on international terrorism. The US government did not go to war against Iraq to reduce terrorism. There was no link between bin Laden and Saddam Hussein, despite desperate pressure by the Bush administration on the US intelligence agencies to produce evidence showing that there was. George Bush's war against Iraq was also supposed to be convincingly justified by the claims that Hussein had weapons of mass destruction; that these weapons were an imminent danger to Iraq's neighbours, particularly Israel, and also to the US and the world; and that these weapons were a new terrorist threat to the world because, allegedly, they could and would be handed over to terrorist groups outside Iraq to use against the US and other nations. No such weapons of mass destruction existed at the time of the US invasion of Iraq. They were not found before the invasion, they were not found during the invasion and they have not been found since the invasion.

All that Australia's pathetic excuse for a foreign affairs minister has been able to claim is that Hussein had weapons of mass destruction programs. Worse for him and his government, the Minister for Defence, Senator Hill, has now admitted there are no weapons of mass destruction. His immortal words last week were:

Now we are confident that there are no weapons of mass destruction ...

This is a total repudiation of the claims made by Prime Minister Howard to manufacture a justification for invading Iraq. It shoots down the Liberal propaganda for the war. It does not matter that the minister later issued a so-called clarifying statement, as ministers and the Prime Ministers always do when they are caught out lying or deliberately misleading—or, even worse, telling the truth, an even bigger crime in the minds of the Howard government. This Prime Minister has added an 11th commandment to the Ten Commandments and shifted it up so that it is now the first commandment. It says: thou shalt not tell the truth.

George Bush's war on Iraq was designed to apply the outrageous Republican doctrine giving the green light to a pre-emptive war. This crazy idea is a recipe for illegal war, illegal invasion and illegal occupation of a nation, just as has been inflicted on Iraq. The notion has been cooked up by the neocons that run the belligerent ramblings that make up the George Bush foreign and defence policies. Along with it goes the use of the label 'axis of evil' designed to soften up public opinion in the US for potential attacks on other nations, North Korea and Iran, and to create the phoney impression that the United States, the world's only superpower, is under threat from desperado states. All this nonsense is part of the Republican Party's setting of the political agenda to make the US voters feel in more danger from the outside world than they are and to kid voters that only a cowboy in the White House can save them. It is also part of the fear propaganda that has been whipped up to justify pursuing the absurdity of George Bush's multibillion dollar Son of Star Wars missile defence program.

The United States is right to be worried about global terrorism. September 11 was created by global terrorism and it was an outrage. It was an outrage against Americans and it was an outrage against humanity. The world grieved with America and for America when its people sustained this vile act of barbarity. It promptly won widespread support for its war against al-Qaeda and the Taliban in Afghanistan. That was not a pre-emptive war but a punitive war and a deterrent war. The support the world gave the US for its attack on al-Qaeda in Afghanistan was not there for George Bush's pre-emptive war against Iraq. The war on Iraq was illegal. It was in defiance of the Charter of the United Nations and the Security Council and it invoked massive open and passionate opposition from around the world.

Australians were overwhelmingly opposed to Mr Howard sending forces to Iraq. The case for Australia buying into George Bush's war was based on untruths, and they have all come home to roost. All the US assault on Iraq has done is divert resources from what ought to have been the real war on terrorism. It did not stop the terrorist attack on Spain—quite the opposite. It put Spain in the firing line. Afghanistan is not secure. The authority of the government that the US has established in Afghanistan barely reaches beyond the gates of Kabul. Al-Qaeda remains a threat, and where are the US troops who were supposedly fighting terrorism? A massive army has been sent to attack Iraq and to hold it down. How many soldiers does Australia have in Afghanistan? As I said before, just one. I hope for his sake his name is Rambo. Most Australians believe that Australia's intervention in Iraq has put Australia in more danger of a terrorist attack. The government itself has this view. It is inconceivable that it does not. It is simply beyond belief that the government thinks otherwise.

Mr ROSS CAMERON (Parramatta—Parliamentary Secretary to the Treasurer) (5.12 p.m.)—There is a debate going on in the main chamber at the moment which is a censure of the Leader of the Opposition. Frankly, I do not intend to enter into this debate today as part of the censure motion. I am happy for others to make the judgments on matters of character which have arisen from the statements of the Leader of the Opposition about the extent of briefings he received from government agencies on intelligence. I want to focus exclusively on the consequences for Australia of the substantive change in policy which has been signalled to the Australian people, to our allies in other places around the world, to the people of Iraq and to the enemies of democracy—the change in policy that is signalled by the announcement that Labor's intention is to have the Australian troops home by Christmas.

We do not know exactly what is in the minds of the senior strategists of al-Qaeda and, frankly, I do not know what exactly is in the mind of the Leader of the Opposition. We on this side of the House were a bit surprised and perplexed when the Leader of the Opposition returned from Tasmania. He had gone to Tasmania, he had met with the timber workers and he had given them assurances that the Australian Labor Party would continue to support them. He had said that it is simply not reasonable to expect a 55-year-old timber worker to become a tourism operator. He then stood in front of a couple of trees, drank out of a stream and flew back to Sydney with Green preferences signed, sealed and delivered for the coming election.

Mr Quick—That is not true.

Mr ROSS CAMERON—Frankly, I accept this is speculation. We were trying to understand. How is it that a guy can go down to Tasmania, make significant commitments to timber workers, have his photo taken in front of a tree, drink from a stream and return to Sydney with a national deal for Greens preferences? We did not find out—we were scratching our heads

for a couple of days—and I suspect we discovered the answer to that question on the Mike Carlton program.

Mr Albanese interjecting—

The DEPUTY SPEAKER (Ms Gambaro)—I ask the member for Grayndler to extend the same courtesy to the parliamentary secretary that was extended to the member for Bendigo.

Mr ROSS CAMERON—We know how much Bob Brown hates the President of the United States—so much so that, when we invited him from the other place to join us in the chamber for the President’s speech in the House of Representatives, he indicated the extent of his personal hostility towards the President and his government. Frankly, this issue is not about whether we like George Bush. It is not even primarily about our commitment to the US alliance. It is about what kind of a country we want to be.

There are many aspects of the current Leader of the Opposition which I find interesting—even at times attractive—in political and philosophical terms. I am very open to the critique of the Leader of the Opposition on social capital, on bottom-up democracy and on taking out the middleman. I am open to and engaged by his arguments on the reform of parliament. I agreed with his bold call for us to realign the parliamentary superannuation scheme with community standards. But, on this issue in Iraq, he has made a decision which I regard as one of enormous culpability, one that I will fight tooth and nail and one for which he deserves whatever opprobrium comes his way. At the beginning of last week I made a very strong statement on this subject. If I recall, I said: ‘Mark Latham needs to learn weakness is a provocation. The strategy of al-Qaeda is not primarily’—

The DEPUTY SPEAKER—I ask the parliamentary secretary to refer to the Leader of the Opposition by his parliamentary title.

Mr ROSS CAMERON—I am quoting from a media statement given outside the House.

The DEPUTY SPEAKER—I will allow it.

Mr ROSS CAMERON—‘The strategy of al-Qaeda is not primarily military, it is political.’ It is to widen and exploit divisions within the Western alliance and will weaken the resolve of those countries to defend freedom and the sapling democracy emerging in Iraq. It was for that reason that I was most angered by the announcement by the Leader of the Opposition.

In the end this is an open, liberal democracy: we lie in the bed we make. The Leader of the Opposition may derive a political benefit from this decision he has made. He may even believe in his heart that it is the best thing for Australia. Frankly, I think he is wrong on both counts. I think that, having correctly determined that the Australian people were not enthusiastic about the war in Iraq in the first place, he assumed that they would likewise be enthusiastic about this unilateral, arbitrary time line that he had set for the return of the troops. He assumed that one would flow to the other, and it is turning out that on that issue he was dead wrong. Many Australians who were ambivalent—

A division having been called in the House of Representatives—

Sitting suspended from 5.19 p.m. to 5.40 p.m.

Mr ROSS CAMERON—I concluded my remarks last week with the statement that somewhere in the mountains of West Pakistan Osama bin Laden is stroking his beard and giv-

ing thanks for the advent of Mark Latham. This remark attracted some comment. Some regarded it as over the top—excessive. I just want to make a couple of points about my statement last week. I do not retract a word of it and I do not resile from any of the sentiments expressed in it. The basic thesis was this: firstly, weakness is a provocation. The thesis of the ALP has been that our commitment of troops to participate in the original entry into Iraq and removal of the socialist Baath regime of Saddam Hussein exposed Australia to greater risk. Secondly, the Leader of the Opposition's most recent statement is that we should bring the troops home by Christmas so they can be present in Australia to defend our national interest here rather than engaged in these foreign entanglements which expose us to greater risk. He is dead wrong; in fact, he is 180 degrees wrong.

It is my thesis that the Leader of the Opposition has done more to expose Australians to the risk of terror in the last week than any other action in the last 10 years. I am going to cite a couple of authorities for that proposition. Barrie Cassidy, on the *Insiders* program—echoing the sentiment that perhaps I had gone too far—put the question to one of the most respected analysts and commentators in Australian political life. Cassidy said:

There have been some emotive things said this week, almost hysterical in some cases, but what of this core claim that terrorists will welcome what Mark Latham has done. Is that over the top?

It is not Piers Akerman to whom I refer but Paul Kelly. He said:

Frankly, I don't think it is. I think policies have got to be judged by their consequences and there is no doubt that the terrorists will welcome this new policy. Not only will they welcome it but I think we should bare in mind that in a sense this is what the terrorists have been trying to achieve over the course of the last 12 months in Iraq. The pattern of their attacks is not at random, it is quite deliberate. They attack the UN, they attack those Iraqis who support the UN, they attack the US forces and they attack the allied forces, be they Italian or Spanish. The purpose here is not just to create chaos in Iraq, the purpose is very much to break the will of those governments involved and to persuade democratic electorates to pull out from Iraq.

That is precisely what I said in a doorstep interview at Parliament House—that the objective of al-Qaeda is not primarily military; it is political. It is to break the will and weaken the resolve of those countries who are committed to the establishment of a new democracy in Iraq. Greg Sheridan, another respected commentator, has expressed a similar opinion. He said:

Whatever the subtleties of the reasons for the Spanish voting the way they did, "al-Qa'ida deals in the big picture" ... and the big picture looks like a victory for bombs over solidarity among the democracies.

This can only serve to attract more bombs in the future.

What we are engaged in here is a significant global realignment. It is a realignment which in effect does force us to choose: are we on the side of those who have the will to resist terror, or are we going to give a victory to those who have a radical militant Islamic view of the world in which there is only one way to worship God and if you do not follow their way you are subject to whatever tactics of terror they may raise up in their cause?

I note that New Zealand took a path some 20 to 25 years ago under the leadership of David Lange. Frankly, I feel that the substantive question for Australia, which has been put to us by the Leader of the Opposition, is: do we want to become the second New Zealand in the Pacific? I note an article written by Jeff Gamlin in the *National Business Review* of New Zealand. Under the heading 'Politics: no one wants a wallflower', he said:

Prime Minister Helen Clark parts “sorrowfully” with the US and the UK over their alleged breaches of UN principles in the handling of Iraq. But her defence of the UN, which has been a fatally flawed and ineffectual organisation over the past decade, is likely to be at the cost of New Zealand’s interests.

This is at a time when the Iraqi conflict and its aftermath could bring to the surface some fundamental differences between two camps within the west.

It is a fissure that could bring with it some serious political and economic arm-wrestling that may reverse the globalisation trend and re-impose the importance of trading blocs.

But New Zealand, through disqualification or default, may find itself in neither camp and alone.

I do not want to see Australia become another pastel-shaded New Zealand—another country which, under this kind of infantile, chest-beating, ‘We are going to poke the US in the eye and show that we are strong enough to stand on our own two feet,’ shirks its international obligations by walking away from the fights that need to be fought.

Australia, throughout its history, since Federation, whether it be the United Nations, the League of Nations, the United States or the United Kingdom, when picking the team to go and do a difficult and dangerous but necessary job—like I recall in the playground as a child, when the captains are picking the sides—Australia would always be among the first picked. People knew what it meant to be an Australian. They knew that there was a resolve and a willingness to take the difficult decisions, to provide leadership and to stand up to those forces, whether they be national socialism in Germany, communism or whatever the threat may be. Those who would stand up and defy democracy must meet with resolute opposition, and Australia has always been first to volunteer.

That is the kind of nation that I want to come into this place and defend and uphold. That is the kind of nation I want us to hand on to the generation who will follow us. Apparently, that is not the kind of nation that the Leader of the Opposition wants. The Leader of the Opposition wants to signal to the world, to those Iraqi patriots who are risking their lives every day to see democracy established in that country and to the other 24 countries—what am I going to say when I meet with the ambassadors of Spain, Portugal, Denmark, the Netherlands, Italy, Estonia, Latvia and Lithuania?—that we do not have the guts or the resolve to do the job that needs to be done, that we are going to cut and run at the first sign of opposition. That is not the kind of future that I want for our nation. This is a battle not so much about the character of the Leader of the Opposition but about the character of Australia. And the Leader of the Opposition today is walking away from the very best of our national character. (*Time expired*)

Mr ALBANESE (Grayndler) (5.49 p.m.)—I am very pleased to rise to support the first part of the motion moved by the Prime Minister, which expressed our support for and confidence in the 850 Australian Defence Force personnel currently deployed in or around Iraq, but to oppose the second part of the motion and support the amendment moved by the member for Lingiari. We have now had this debate for two days. We had it yesterday after the motion moved by the Prime Minister, and we had another motion moved by the Prime Minister in place of question time today. That has exposed the desperation of this government. It has reached a new low in its preparedness to play politics with our Defence Force personnel. The government attempted to move a two-part motion that would have seen the Labor Party, because of our opposition to the war in Iraq and our principled position on the need to have an exit strategy from Iraq, vote against the interests of our Defence Force personnel.

Yesterday, we saw that exposed and we saw the Leader of the House, the member for Warringah, humiliated by his own Prime Minister when, through the member for Cowan, we moved a procedural motion. Quite frankly, on these issues I would rather be on the side of the member for Cowan than that of any of the warmongers opposite. The fact is that there are many opposite who are warmongers. They talk big about the need to intervene but have not done it themselves. They are happy to send others to war but have not gone to war themselves. They are the facts. The member for Cowan has gone to war and he, a man of honour, knows that this conflict was wrong. He sought to separate the two parts of the motion so that the entire parliament was expressing confidence in our Australian Defence Force. That is what occurred, thanks to the Prime Minister coming in and recognising the grave political mistake that had been made by the Leader of the House and other government members.

We now have this quite bizarre debate where there is the suggestion that, somehow, there is some surprise that the Leader of the Opposition has stated that Australia's troops should be withdrawn from Iraq as soon as practicable after their mission is completed, that defined as being after the handover to an Iraqi government. In retrospect, this conflict—at the time it was supposed to have been about weapons of mass destruction—is supposed to be about self-determination and democracy for the Iraqi people, not about the continuing occupation of Iraq with no end date on the agenda.

I cannot understand why there would be any surprise. On 25 February 2003 I was very proud to march in Sydney with the now Leader of the Opposition, the member for Werriwa, and indeed to carry his young son, Oliver, on my shoulders for a while. It was a long march. It took a long time to leave and a long time to arrive because of the hundreds of thousands of people who were there expressing opposition to Australia's involvement in the Iraq conflict. The member for Werriwa did not hide his position and, what is more, neither did the Labor Party. On 17 March I was a member of the shadow cabinet which adopted unanimously the position that a Labor government would immediately bring the troops home from Iraq. It was very clear. On 18 March, the next day, at a full caucus meeting a unanimous resolution along the same lines was adopted by the ALP caucus. That resolution said that Labor oppose the use of military forces and urge their withdrawal and, furthermore, that a Labor government would immediately bring the troops home. We reinforced that on 24 March with yet another shadow cabinet resolution, and then again on 12 May.

There is nothing surprising about any of this, and neither is it surprising that the Leader of the Opposition's views then—prior to the conflict—have proven to be correct. They were based upon a view that we were being led into a war on false pretences. That is a view that is held not only in Australia but also in the United States. In the last fortnight, Richard Clarke—who I guess would also be a friend of Osama bin Laden according to the member for Parramatta; however, he was the national security adviser on counter-terrorism to the White House—has said that, within days after September 11, President Bush asked him to find reasons why Iraq was to blame. This was despite the fact that there was no evidence and despite the fact that anyone who understands the history of the region knows that Saddam Hussein not only terrorised his own people, Kurdish people, ethnic minorities, religious minorities, communists and gays but also oppressed and murdered Islamic fundamentalists and was diametrically opposed to the ideology of Osama bin Laden and al-Qaeda. But President Bush

was determined to go to war. And you do not have to take our word for that. His then national security adviser on counter-terrorism said that that was the case.

Now we are astonished to hear the government talking about the need to support the United Nations. They must think that people have very short memories. The ALP's position was always that any international action had to be on the basis of United Nations resolutions. We also said that the war in Iraq was a distraction from the war against terror. Osama bin Laden is still at large, and there is considerable evidence that al-Qaeda have been able to regroup in provinces of Afghanistan and Pakistan and that they are being financed by money from opium and engagement in the drug trade. That must be the priority of Australia. We know that now, after the conflict, the Labor Party's position has been vindicated, and the Leader of the Opposition sought and had meetings with Mr Bonington of DFAT on 5 January and with ASIS on 11 February. We have seen a despicable attempt to take the politicisation of the Public Service to the next depth.

We all know what happened during 'children overboard' and the Tampa affair. The book *Dark Victory* by David Marr and Marian Wilkinson outlines in a horrific way the undermining of our democratic institutions and the manipulation of the Public Service and the defence forces that occurred at that time. Now we are seeing it with defence personnel. What the Prime Minister has done today during the debate is, frankly, to tell the world far too much about our ASIS operations in Baghdad. What an extraordinary thing for the Prime Minister to do: to walk into the House and try to seek cheap political advantage and, in order to do so, be prepared to talk about our secret service operations in another nation. This is a desperate man without any principle whatsoever.

We know that the entire government is getting desperate. We had the bizarre suggestion by the member for Parramatta that somehow this was all as a result of the deal done in the Tasmanian forests between Bob Brown and Mark Latham—as if Mark Latham's position has not been consistent on this from day one. But, then again, the member for Parramatta is the fellow who brought General Rabuka into Parliament House to lecture young people about democratic institutions and principles! It is not surprising that the member for Parramatta has been rebuked by his own party for some of the comments he made last week outside the chamber. But he has repeated them in here again today—again repeating the mistake. He is prepared to argue that, if you support UN processes on international policy, if you say that it is wrong to go to war to get rid of weapons of mass destruction—that do not exist—somehow that makes you a friend of Islamic terrorists! That is an outrageous slur and an outrageous position taken by the member for Parramatta.

This is a government that is desperate. We know that members of the government rely upon fear whereas the Labor Party stands for hope. They talk about security and Islamic terrorists and say that the Labor Party is somehow giving succour to that point of view, but we know that that is just a strategy. This government has run out of ideas. It has no agenda for Australia. It was desperate to avoid questioning on Labor's work and family package—the baby care package—announced today, which will give \$3,000 to every parent in 2005, working up to \$5,380 by 2010. It does not want to debate those issues. Instead we had a debate that went for more than three hours, along the same lines as the debate we had yesterday. Maybe we will come back and do it all again tomorrow.

The government rest upon the basis that somehow there was something unusual about the Labor Party's position. What they fail to acknowledge is that the Labor Party has been consistent. History will judge us well. I will certainly be proud to tell my son, when he is old enough to understand, that I stood up for principle on this issue and that I was part of a political party, the Australian Labor Party, which stood up for principle on this issue as well.

Mr HARDGRAVE (Moreton—Minister for Citizenship and Multicultural Affairs and Minister Assisting the Prime Minister) (6.04 p.m.)—As the member for Moreton, I am pleased to join this debate because it is a matter of enormous importance in the scheme of things. The world is a different place to that which it was a few years ago. There are approaches to so many of these international crises that require strong leadership, not a changing position. The Australian Labor Party, in their contribution to this debate, from the leader down to the member for Grayndler, whose offering I just heard—normally the member for Grayndler is a lot more enthusiastic, so I suspect he has been sent here to provide the numbers in this discussion more than anything else—have shown that they have more positions than the *Kamasutra* on this. I would like to take the member for Grayndler in particular to task. This government does not to use the terminology 'Islamic terrorists'. This government deliberately does not use that terminology. In fact, I think it is a disgrace that the member for Grayndler should come in here and imply that it does. I am certain that he will find, if and when he visits his electorate, that members of his own branches who are devout followers of Islam will take him to task—and they should—over trying to put the religion of peace together with the concept of terror.

We will deal with terrorists, we will deal with the question of those who want to try to change society by imposing terror upon it, but there is no need to tie in decent people who are peaceful and law-abiding citizens in this country or anywhere else in the world who, through a religion, are perhaps being defamed by people like the member for Grayndler on a daily basis. I think he should know better than he did today. This government strongly believes that this is about a character matter. It is not the Australian way to cut and run. We have never walked away when the world has needed us. In fact, we have always been, in the words of the song *God Bless Australia*, the first to answer the call—and we have done so because we are the sixth oldest continuous democracy in the world. There are not many nations like Australia that can make a claim such as that. The United States, the United Kingdom, Canada, Switzerland and Sweden were democracies before us and have continued their democracies through the time we have been a democracy—and New Zealand came immediately after us. It shows how fragile the sense of democracy is.

With those strong democratic traditions comes a sense of responsibility. Our troops, as they have always done, are playing a role, as part of a contingent of international response, to winning the peace in Iraq. Just as we have done in East Timor, just as we have done in the Solomons and just as we have done in Bougainville in recent times, the people in Iraq are seeing Australian service personnel up close and personal and understanding that we might be different from the rest—that we are there to provide strength in the win for the peace. We were certainly very much engaged in the business of the liberation of Iraq and now we want to continue to deliver on that effort.

The Somalians in my electorate know very well the sense of service Australian personnel brought to their troubled country a decade or more ago. This will be evidenced on this coming

Anzac Day when Ken Railton from the Yeronga-Dutton Park RSL and the club members will be welcoming members of the Somali community to lay a wreath as a tribute to Australian service personnel. They will do so because they came to Australia attracted by the strength of our service personnel working in that particular theatre.

The same is true of the Vietnamese, the Cambodians, the Laotians and the many who fled war-torn World War II Europe and who have made their place in Australia: 600,000 refugees and six million migrants from all parts of the world have settled in this country since the Second World War. They are attracted to our democracy and they are attracted to our character as a nation—a nation that is not afraid to cross the seas to stand in support and not afraid to be part of international efforts when the time arises, a nation that is ready to stand on its principles, its character and its logic as a country and to help out mates and maybe find a few new mates in the process.

I believe also that in the broader debate—the member for Grayndler also talked about this—a lot of offence is offered to the service personnel in their various forms still serving in Iraq, and to their families and friends here in Australia, by the style of debate that has taken place in this country. In a democracy you have to put up with a range of views. The right of freedom of speech cannot be exercised without also understanding the responsibility that comes with it. Some of the offensive things that have been said, as this motion has attempted to draw out, have I think undermined the sense of service that our troops have brought.

I know that all members voted in the main chamber of the House of Representatives to support our troops, and I welcome that. But again it is this debate in the background. It is the whisper. It is the sense of pulling the troops out early, bringing attention to Australian service personnel ahead of all others and sending a signal to those who want to try to force our hand that, if you pick on the Aussies, maybe they will leave faster and Iraq can be plunged back into the sort of nation that it was.

The Kurdish community in my electorate understand that well. I have confessed in this place previously that members of the Kurdish community who came to Australia as refugees, who came to this country through the United Nations High Commission for Refugees process, were very worried, as indeed were other Iraqi born minorities in this country—Christians and Jews; people whose family and friends were murdered at the hand of Saddam Hussein—and understood all too well that at the time of the liberation, the invasion that took place in Iraq, they might have been the first ones to have been taken out, beaten up and persecuted further by Saddam. But they now look back and are thankful for the fact that this nation had a leader who was strong in his resolve, sure-footed because of his experience and able to make the right decision. Frankly, Iraq is now no longer a place where diversity is a reason for punishment. In time, one would hope that Iraq can be a nation like Australia, where our diversity is a sense of reward, where people from all the various elements of our community are given a chance to work and to be who they are—but to be challenged to be for Australia—and to be free to practise their religion, their culture and their traditions. But that was not Saddam Hussein's Iraq.

The discussion about needing a smoking gun, the weapons of mass destruction and the suggestion about needing a legal excuse for action—we all know the United Nations resolutions were already in place and that the action that took place with the coalition of the willing was done on a lawful basis—because some massive amounts of weapons were not found is

offensive to the memories of those who have come to this country as refugees, fleeing just those weapons. The story of the 13-year-old girl from Iraq who attends Yeronga High School comes to mind. At an Austcare refugee week event at Woolloongabba in Brisbane last year, she told the story about how life was pretty good growing up in Iraq until the day Saddam and his troops killed 5,000 of her townspeople. What further proof does the world need that weapons of mass destruction had been used in that country? We knew that they had been. But I am very glad that there have been no further weapons of mass destruction found. Why doesn't anybody celebrate the fact that the suspicion has not been realised? Why doesn't the world feel safer after our taking on this regime that had snubbed its nose at the United Nations time and time again—had played cat and mouse for years and had said to the world, 'Get lost, we're not going to tell you'—and finding that they were not there? Why is the world not celebrating that? Instead, the Australian Labor Party and other fellow travellers seem to want to denigrate the decision that revealed the truth to the world. At the end of the day, the question of weapons of mass destruction is not the important one. The fact that there is another country on its way to a sense of democracy and a sense of freedom should be the important one that people in this place especially turn their minds to.

Trying to fish around for blame, and trying to find which intelligence agency said 'Go do this' and 'Go do that', also to my mind undermines the important work that is being done by the Australian troops in Iraq. The Prime Minister, because of the strength of his leadership, did not on one occasion walk away from the fact that it was his decision. And I would remind members opposite that, at the time when Australian troops were committed to the coalition of the willing, he said, 'Don't blame the troops, don't blame intelligence agencies; I'm the person taking responsibility for this decision.' If you are not a strong leader, you do not have the capacity to make those sorts of complete statements to the Australian people. They are simple but complete statements that say very clearly that the decision to act—based on Australian principles and Australian character—was a decision that was made by the Prime Minister alone. I salute him for the courage of his leadership.

But, of course, the opposition leader is still looking around for his own advice because he does not have the courage to make his own decisions as well. Whilst not intending by his words to do so, he is part of the demonising of Australian service personnel in Iraq. As the Treasurer said yesterday, he is acting like a former member for Werriwa, a poor man's Whitlam, looking for troops anywhere to pull out from somewhere to try to appear as it was in the early seventies, a promise from then opposition leader Whitlam that somehow or other peace would break out if his government were elected. As the Deputy Prime Minister said today, there were only a little over 100 troops actually still in Vietnam at the time that the Whitlam government was elected. So this is more smoke and mirrors from the Australian Labor Party.

I agree with the point made by the Prime Minister: Australia simply cannot be, and cannot afford to be, the first country to signal a sense of cutting and running. Australia cannot be the first nation to break ranks and say to the world, 'We are no longer acting in the Australian way; we are going home now.' That is not the way Australia has acted throughout the entire 103 years plus of our democracy. That is not the signal we have sent to others in the world. That is not the tradition of Australian armed service personnel, who have been very mindful of their duties to Australia and of the solid, reliable reputation of Australia in whatever theatre of war they have happened to serve.

A direct attack on Australia might not have been in the minds of each of those service personnel as they arrived in aeroplanes and boats in Iraqi territory a year ago, but making the difference, preserving the style of society that we have here and not taking any of it for granted was very much motivating their actions. It is important that we send the troops that are still there a strong signal of support, no matter what they are doing—whether they are involved in air traffic control or in protecting our diplomats and other Australian citizens who are there providing service through other means to grow the peace into a strong democracy.

The last thing we need in this country, even though we pride ourselves on the range of debate we have, is to send a signal to those who do not like the sort of society we have here—who do not like the fact that our diversity does work and that we have strength because all religions and all cultures are evident in this country; who want to see people turned against each other; and who want to see terror win—that, maybe, through a ballot box process, a government might be elected to this country that might be prepared to heed the request of terrorists and follow their signals.

We are not there to control the Iraqi people. As a nation, that is not our way. We are there to give them the confidence that they deserve to run their own affairs, to find the strength within their hearts to rebuild their nation and to embrace the sense of respect and openness that a democracy provides. Through our troops, through our own efforts, through bothering to be there and through being part of an international commitment to be there—and I believe this is a very important point to make—we are showing them the way of openness, egalitarianism and equality of opportunity. All Iraqis can learn from our example and grow their country into a nation that knows peace and has a sense of respect, so that whether you are a Chaldean, a Kurd, a Muslim or a Jew does not matter and at the end of the day, if you are an Iraqi and you are part of the society, you are respected. That is not the Iraq that existed while Saddam Hussein was in charge.

In closing, we see the daily bloodshed, the riots, the demonstrations and the approaches from those who want to cause upset and turmoil in Iraq. We see those simply because there is an open media operating where there was not one before Saddam left. No longer do we see the so-called Comical Ali giving us the government's word. We actually see the openness, the transparency, which the media provides. It is called freedom. Sometimes those of us who have had it for a long time do not really know what it is like to get it for the first time. I remind those opposite to realise their role in that particular part of this debate. (*Time expired*)

Mr WINDSOR (New England) (6.19 p.m.)—I will speak briefly to the motion. Obviously—as all members of parliament did yesterday—I would support the first part of the Prime Minister's motion:

That this House:

(1) expresses its continued support for and confidence in the 850 Australian Defence Force personnel currently deployed in or around Iraq and records its deep appreciation for the outstanding professionalism they have displayed in carrying out their duties;

Even though there has been a lot of politics played over the last couple of days, I was pleased yesterday when the Prime Minister divided the motion so that the first part could be carried. I think it is very important that we do express support for our troops, irrespective of how we feel about this particular conflict. The troops are there at the behest of the government of the day and they should in no way be cast as outcasts in any shape or form.

When I reflect on some of my friends who were in the Vietnam War and the way they were treated, I think there is a lesson that we really do need to learn from that conflict: that, irrespective of our views on conflicts that Australians might participate in, those who are there—who have been trained and who are representing the nation there—should be honoured for the way in which they conduct themselves. Let us hope that the 850 personnel that are there now do return safely.

I did not vote on the second part of the Prime Minister's motion; I abstained from the vote. I also abstained from voting on the amendment put by the opposition. I did so because I thought the second part of the Prime Minister's motion and the Leader of the Opposition's amendment were a continuation of the political game-playing that has been going on for some time on this particular issue and has been going on again today.

I find it quite interesting that we voted on this motion yesterday and we are still debating it now. It takes me back to the debate that took place before Australia went to war in Iraq. We were still debating the views of our various constituents and constituencies hours after we had effectively declared war on Iraq and Saddam Hussein. Here we are again: we have virtually determined the outcome, what the parliament is going to express, yet we are still debating the issue—and, obviously, people on both sides are creating their own political points in the discussion. So I abstained from voting on both the second part of the Prime Minister's motion and the Leader of the Opposition's amendment, but I would like to just make a couple of comments about this debate, if I could.

I think what we are seeing, once again, is the need for some degree of process. I have spoken to quite a lot of constituents about this particular issue, and people have been ringing and emailing my office today. A lot of people, whether they believe that the war was right or wrong, really want to establish some sort of process. There was no process when we went into Iraq. There was no real reflection of the views of the constituents when we went to war. It was deemed a decision of the executive government.

I remember the Prime Minister reflecting on the first Gulf War, when the then Prime Minister Bob Hawke made the executive decision, and our current Prime Minister deemed that that was the process that he would follow. So the parliament virtually had no say in the process. There was no real process established. There were various people—I was one and the member for Calare was another—who believed that the process should involve the United Nations. I think the Australian people, irrespective of whether they were supportive of the Prime Minister or the Leader of the Opposition, are looking for some sort of process and I do not think one came out of yesterday's debate.

I have listened closely to the Prime Minister in this debate, and his arguments are based on the fact that we should not put any time lines on the return of the troops and they should not come back until the job is done, but at no stage did he define what the job was and when it would be done. There has been a little bit of talk today about the air traffic controllers and the handover to the locals in Baghdad. I think the Prime Minister really does need to flesh out the process that he believes should be put in place, so that the Australian people can understand what he is trying to say with his rebuttal of the time line put forward by the Leader of the Opposition.

The Prime Minister says time and again that they should not come back until the job is done. To me, that smacks a little bit of the Telstra argument: Telstra will not be sold until it is

up to scratch. In both cases there is no real definition of process. When is it up to scratch? When is the job done? What is the job? Is the job about military protection? Is the job about phasing out military protection and phasing in aid that will be required for many years to come, in my view, in Iraq? I have not heard the Prime Minister flesh out what the job essentially is and what process he would deem to be appropriate so that the people have a very clear idea of when that job is done and it is not just a political decision based on the particular moment. So I ask the Prime Minister to establish what he actually means by 'when the job is done' and to put in place a process.

At the time of the debate about whether Australia should engage in the conflict and the various arguments were being put, the Prime Minister was not too interested in what the Australian people had to say via their members of parliament. As I said, he deemed it to be an executive decision, and I will not argue with that. But I find it interesting, now that the opinion polls are virtually mirror image, that he would like to have members of parliament reflecting the views of their constituents. And here we are, we are still talking about it, but we have already voted on it. There are a number of issues there.

I personally believed, and still do, that the process that we used to enter the war probably was not the best one that could have been used. I think we should have been involved through the United Nations and I have no doubt—this is where I have some difference with the Leader of the Opposition in terms of his process—that we will see the United Nations involved in the coming months, possibly after the June deadline, and will see a real global process established in relation to trying to do something about this particular conflict and the way in which a handover can take place.

I was supportive of the amendment that was proposed by the member for Calare. Obviously the procedural motion that was put yesterday limited the speakers and the way in which amendments could be put, and that amendment was essentially not debated, but I would like to read it into the *Hansard*. It is quite brief. It reads:

That this House is of the opinion that the continuing presence of Australian Defence Force personnel in Iraq be only at the specific request and under the authority of the United Nations in agreement with the Iraqi interim government.

I have not heard many people actually talk about the interim government and what role it will play in the process. I would have thought that, if we are talking about maintaining troops and personnel within any country of the world and there is going to be a handover to an interim government in that particular country, the determining factor of whether or not those troops remain there should be at the behest of that interim government. I think it is a bit premature for either side of the parliament to say they will all come home by Christmas or they will not come home at all, without reference to the interim government when that particular interim government is put in place.

I suggest that two things essentially have to happen, and this has been reflected by my electorate: that the global community be involved in the process through the United Nations; and, on a more local level, that the views of the Iraqi interim government be taken into account to reflect what they really want and what sort of help they require, rather than standing back and from some distance imposing upon them what we believe they may require.

I will mention one other thing before concluding. An article I read by Louise Dodson in today's *Sydney Morning Herald* reflects some of the views that Australians have. The headline

is 'Battle-weary voters care more about health and economy'. The article goes through a series of issues that people will be voting on at the next election. I will not read the article, but the poll it discusses indicates that the war in Iraq rated seventh out of eight issues affecting how people plan to vote in the election expected later this year. It is an ACNielsen poll and it was conducted last weekend. The article also suggests that only five per cent of those polled rated the war in Iraq and border protection as issues affecting how they would vote, while 13 per cent said that terrorism and national security would influence their voting behaviour. After health, managing the economy was the second most important issue affecting voting intentions, with 18 per cent rating it highest, while education was rated the third most important at 16 per cent. Tax was rated the most important issue by only eight per cent of voters.

It is all very well for us to play our various political games and try to gain ascendancy within this place by debating the various processes that may impact on Iraq, but I think the Australian people are saying that they would rather their parliament not continually debate whether 45 minutes was long enough for the Leader of the Opposition to find out about the various defence arrangements and not spend the hours that we are spending on this particular debate. I think the people of Australia are saying, 'We want the parliament to get back on to more important issues: health, education, the economy and the like.' Let me repeat that headline: 'Battle-weary voters care more about health and economy'. Australians want their parliament and their parliamentarians to return to the job at hand.

My final remarks—and I do apologise to the member to whom I suggested that I would only be speaking for five minutes—are that, with regard to the Iraqi situation, unless we establish a process within that country that the people who follow us can understand, we really leave ourselves open to argument as to what we are doing by going to war with anybody. I have raised this issue a number of times. If we, in a sense, have used the process of going to war because there is some despicable despot in a particular country, why aren't we in Zimbabwe now? Why aren't we in many other countries where there are equally despicable leaders? If the answer to that is that you just cannot go to war with anybody, we really have to re-establish some sort of genuine process not only in terms of our own society but also in terms of our global position. I remember the comments of the member for Calare. His view is that we really do have to re-establish some connection to the United Nations. I am sure that at the end of this current conflict we will see that linkage re-established and that the United Nations will become a very important part of the resolution of this conflict.

Mr BAIRD (Cook) (6.33 p.m.)—I am very happy to support the Prime Minister's motion, particularly the first aspect of the motion which states:

That this House:

(1) expresses its continued support for and confidence in the 850 Australian Defence Force personnel currently deployed in or around Iraq and records its deep appreciation for the outstanding professionalism they have displayed in carrying out their duties ...

I am very pleased to see that all members of the House were able to support this part of the motion—and so they should; we have very fine defence people in Iraq, doing an outstanding job in a whole number of areas. We have 85 troops who are there protecting the Australian representative office, which is important to our relationship with the Americans. The RAAF C130 Hercules contingent of 150 personnel are providing vital airlift support and the principal means for Australian officials to enter Baghdad. We have 80 air traffic controllers in Iraq,

which I would have thought is a very significant role; 53 army trainers, training the new Iraqi Army; and 12 Navy personnel. On HMAS *Melbourne* we have 270 people conducting maritime interception operations in the northern gulf, and we have 160 RAAF people conducting maritime patrols and providing support to counter-terrorism operations.

Of course, the role that the defence personnel play in Iraq does fly in the face of the claims of the Leader of the Opposition of wanting to remove the troops, as if they were providing no worthwhile role, when the country is very significantly in need of reconstruction efforts. To at this time withdraw our people, when they are providing vital services, sends the wrong signal—and the impact will be felt more directly by the people of Iraq than anyone else—and would be a great pity. That is the second part of the motion, which of course the Labor Party would not agree to. The Leader of the Opposition wants to withdraw the troops by Christmas.

One of the things that I do in my electorate in terms of testing what people think is the surf club test on Saturday mornings. I swim with a whole lot of guys on Saturday mornings and we gather around for coffee. I raised the issue as to what they thought of the Leader of the Opposition's stand. I had one person out of the 20 people who did the swim who thought, 'Well, maybe he's got a point,' but the theme of the great majority was the same, and I quote one of them directly: 'As Aussies, we don't believe in deserting our mates when the going gets tough.' Isn't that what it is all about? It is about standing shoulder to shoulder with your mates. In Iraq no-one is pretending that it is easy going. It is a tough reconstruction—a place that was a war zone, where lives are in peril and the basic services are badly in need of reconstruction.

That is what it is about. The Americans came down here and supported us in the Coral Sea battle. My parents, who had a young family at the time, certainly recounted to me their great admiration and thankfulness for the role that the Americans carried out in the defence of Australia at that time. We should not forget that period so lightly or our relationship with the Americans in several theatres of war—in World War II, in the Korean peninsula, in Vietnam and, most particularly, in the Coral Sea battle. I see my good friend from Tasmania opposite, the member for Franklin, who has stood quite publicly against the war in Iraq. I respect his views on the issue, but having gone into Iraq—having taken that commitment—we have a responsibility in the rebuilding of that country to ensure that there is proper security, to ensure that the airports work effectively, to ensure that the policing of the roads and highways is carried out effectively and to ensure that the people in the naval forces are trained effectively. This is what it is about.

Do you desert your mates? Do you desert a country in which you have a responsibility, whether you agreed with the initial decision or not? I saw the member for Griffith on *Lateline* on the ABC shortly after the very tragic bombing in Spain, where the government had changed quickly. He was asked: 'What is your view? Should the troops be withdrawn?' He very sensibly outlined a policy, saying, 'We did not agree with being involved in the war in Iraq, but now that we are there and involved we have a responsibility for the reconstruction of Iraq and to ensure that the security of this country is right.'

I believe that the member for Griffith was singing the Labor Party song as he knew it, and then the Leader of the Opposition had a brain snap and was carried away with hubris. The Deputy Speaker, Mr Causley, and several others in this House would have seen people who have been carried away by hubris. He was thinking, 'The polls are up and we have got sup-

port for these issues; I think we'll bring the troops home'. He thought he would try to relive the glory days of the Vietnam War, when the marches were on against LBJ and the left of the Labor Party rallied to the anti-war slogans. Labor think this is the same, but it is a totally different environment. The war is over; the reconstruction is on. The future of the people of Iraq is at stake. I just find it amazing that you can have that jump in logic as to where you end up with this total withdrawal.

It does stretch credibility when the member for Griffith, the shadow minister for foreign affairs, comes on *Lateline* and outlines the opposition's policy, it all changes as the Leader of the Opposition has his brain snap, and then we are meant to believe that it was all part of the policy. The problem was that when the member for Griffith was pressed on a later *Lateline* he said, 'I don't remember which shadow cabinet meeting it was where it was agreed that we would withdraw the troops.' Then there was the claim about the meetings that the Leader of the Opposition had with the head of ASIS, the deputy director of the defence forces and the acting head of Foreign Affairs. These were courtesy briefings, it would appear, yet he is claiming that he was briefed in depth on Iraq and that he made his decision then. We all know that this is a big porky and he is really struggling to find reasons as to why he would take such a dramatic U-turn.

You only had to read the body language of those opposite today to see what their response was. It is not as if they were behind their troops, saying 'Yes, we were there and we all agreed we would withdraw the troops.' They sat there looking very heavily into their papers and not looking up. You only had to look at the face of the member for Griffith during this whole period to know that there is something very strange going on. As the old saying goes, what a pattern we weave when first—

Mr Kerr—What a tangled web we weave.

Mr BAIRD—Thank you. 'Oh what a tangled web we weave, when first we practise to deceive!' I am sure that the member for Denison knows this well! So we have the Leader of the Opposition with a rush of blood to the head and he simply announces, 'We're going to change it.' And then, in order to justify himself, all these porkies follow along behind him and, as night follows day, he has been caught in this web of deceit.

Our role in Iraq is significant, the reconstruction is significant, and the trade implications for us in Iraq are significant. A very large Australian company, Worley, has won a major contract in the reconstruction, and we also have grain deals. Many Australian companies are interested in these roles, but this would all be jeopardised, our free trade agreement with the United States, which promises that we would have billions of dollars coming into this country in a whole range of areas—agriculture, manufacturing, services—would be put into question and our role as a reliable partner, as a partner with credibility, as a mate you can rely on would be undermined; and on what basis?

It comes back to the character of the Leader of the Opposition. Can you trust this man? People are saying: 'He's all right in terms of reading books to kids, and he is all right at being an agony aunt—but can you trust him to run the economy of the country? Can you trust him to run the security of this nation? Can you trust him in his relationship with our major overseas partners?' He has been no less than very offensive to the President of the United States—the No. 1 country in terms of economic power in the world and one with which we have recently concluded an agreement. No matter what he might think of the President, to so insult

the leader of one of our strongest allies is an indication of what this man is like, an indication of his skills in foreign affairs and an indication of his stability and reliability. He can change his opinion at the drop of a hat, and he goes about in this flip-flop manner where he will announce a policy here, try to mop up behind and reinvent reasons there, and reinvent shadow cabinet meetings and what briefings were held.

This is significant. If this man became leader of this country, would we trust him? In many ways this is a test of his credibility. This is a test of his skills in international relations. This is a test of his understanding of the meaning of terror. There is no doubt that his simply coming into the House and announcing that Labor will withdraw the troops is a win for Saddam Hussein and his ilk, and a win for al-Qaeda. Having imposed an environment of terror in Europe with the unbelievable and despicable crime that they perpetrated in Spain, they would like to see countries such as Australia being intimidated into announcing that we are withdrawing—that we are getting out of it because it is too hard. That is what they would want, instead of us standing firm and saying: ‘We will have no truck with terror. We are going to stand firm with the people of Iraq and help them rebuild their country. We understand that they have had problems. We want to see their schools rebuilt. We want to see their hospitals rebuilt. We want to see their sewers and water supplies and electricity operating effectively. We want to see their airports being able to bring in tourists. We want to see their trade operating effectively—their ports and the ships going into them being able to operate without the fear of terror.’

Is taking out your troops the way you go about it? When you have an Australian office that needs the support of Defence people to ensure their security, is taking out your people who are involved in vital activities the way you go about it? That is not the way you go about it. This is about a Leader of the Opposition who is desperate to get into government by any means—a Leader of the Opposition who, having moved male role models in schools and the reading of books to children off the agenda, is left with some of the hard questions. That leaves me asking: in what areas has he shown real leadership, apart from the soft options? In what area has he shown any leadership in relation to the management of the economy—which must be one of the major factors of what this place is all about? In what way has he shown leadership as a statesman—as someone who can relate with the leaders of the free world? In what way has he shown an understanding of a tragic country such as Iraq, which experienced unbelievable human rights atrocities with Saddam Hussein as their leader? What would he do? He would simply take our forces out of Iraq for cheap, base political reasons—while at the same time doing backflips and reinventing reasons as to how he reached that point—rather than being man enough to face up and admit to the fact that he made one huge blooper in the decision he reached.

I commend the Prime Minister’s motion to the House. I express my confidence in our troops in Iraq and the very fine work they are doing, and I condemn the Leader of the Opposition for his haste in wanting to withdraw our troops.

Mr QUICK (Franklin) (6.48 p.m.)—It is always interesting to listen to my parliamentary colleague the member for Cook. I am a little bit disappointed with some of my Christian colleagues. To my mind, they are a little bit loose with the truth. In their casting of stones, I would urge them to look at some of the biblical teachings and perhaps have a second think about what they have said. In some ways I feel like an Old Testament prophet, proclaiming a message that the disbelievers do not want to hear. I have in my office the old Iraqi helmet that

I dragged out last Christmas—along with the Christmas tree—to show my contempt for those who were keen to rush into the war. I even brought along my old white arm band tonight, because we are rehashing the old, tired arguments: American intelligence—an oxymoron—Blair's dossier, and pages from a PhD student's essay. We have heard it all before. But, for the honourable member for Cook to say that the Leader of the Opposition is reinventing caucus meetings and shadow cabinet meetings is to stretch the truth, to put it politely.

It is interesting that, when we rushed in to be part of the coalition of the willing, we were keen to support the President of the United States. People in this place know that I have an intense dislike for this man. I thought that tonight, in a wide-ranging debate to take note of the paper, I might quote for the general edification of members, and for the wider population who read *Hansard*, some of the statements by this wonderful leader of the free world, George W. Bush. The honourable member opposite, the member for Kooyong, is busily laughing and he has not heard any of these George W. Bushisms.

I love this one: 'The vast majority of our imports come from outside the country.' I quote some others: 'If we don't succeed we run the risk of failure'; 'I have made good judgments in the past; I have made good judgments in the future'; 'The future will be better tomorrow'; 'I stand by all the misstatements that I have made'; 'We have a firm commitment to NATO. We are part of NATO. We have a firm commitment to Europe. We are a part of Europe'; 'A low voter turnout is an indication of fewer people going to the polls'; 'We are ready for any unforeseen event that may or may not occur'; 'For NASA, space is still a high priority'; and 'It isn't pollution that's harming the environment; it's the impurities in our air and water that are doing it.' Those are some great Bushisms by the man who is the great leader of the free world.

In this debate, those across the way would have us believe that this war against Iraq was justified and that the issue of pre-emption was justified. In my many antiwar speeches around the country, I tried to convince people—even people within my party—that what we were supporting was wrong. I failed. But, in hindsight, it is good to know that some of the things that I and other members of the antiwar movement proclaimed in many rallies around the world were true. The evidence is now leaking out.

It is interesting to hear people talk of the Vietnam War. The member for Cook referred to the 'glory days of Vietnam'. I can assure you that, when I lived in America from 1966 to 1968, they were not glory days. I had discussions with American service men and women having R&R on the beaches in Hawaii. They were with their wives, husbands, girlfriends or boyfriends and they had to go back to Vietnam after a couple of days of R&R. They did not want to go back. They did not want to go back to a war that they knew was wrong—a war that was being fought for all the wrong reasons.

I am surprised that the Prime Minister has made such an attack on the Leader of the Opposition. The Prime Minister's father and grandfather fought in that horrendous war—the Great War; the war to end all wars. My father and my grandfather were both there too. Both survived and came home but they were traumatised by the events that they went through and the things that they saw and experienced in those four horrific years. Why shouldn't we bring our troops home when the job has been done? In May, George W. Bush said: 'The war's over; the job's finished; it's completed.'

Initially when the bodies came back to America, there was the great pomp and ceremony that the Americans do so well—the flag-draped coffin, the escort of armed service personnel

as they took the coffins off the back of the big transport planes that landed at the airfields. Television was involved. The flag was folded in that unique and special way the Americans have and handed to the surviving relatives, with those words about dying in the service of the country. This was a common occurrence until the body count started mounting—and mounting and mounting. More people have been killed since the war concluded than were killed in the actual war itself.

We now have Richard Clarke's evidence to the US congress that the Americans took their eye off the key issue of al-Qaeda and terrorism to focus on getting rid of Saddam Hussein. It is interesting to note that William Rivers Pitt, in his column called 'The Line' published on the Net on Tuesday, 30 March 2004, says:

... Clarke's accusations are damning. According to him, the Bush administration ignored the threat of al Qaeda terrorism completely. After the attacks of September 11, the administration became obsessed with attacking Iraq, despite the fact that every intelligence organization in America was telling them Iraq had nothing to do with it. Clarke maintains that the war in Iraq is a dangerous distraction from the defense of the nation, a political war that has nothing to do with making America safer, and one that has cost us terribly in blood and treasure.

The article goes on to say:

Given the fact that Clarke was physically in the White House for all this, and that he has been in the anti-terrorism business since the days of Ronald Reagan—

light-years ago, I might add—

his accusations have long, sharp teeth.

And what did we see Clarke doing when he appeared before the American congressional committee the other day? It must have taken a hell of a lot of guts on his part because survivors and members of families of victims of September 11 were there in the audience. He said he was sorry he had let them down.

We now have the Prime Minister and members on the other side, the members of his party, saying to us that we should be there, that we have a responsibility to reconstruct the country. I agree with that: we do have a responsibility. We blew the infrastructure to smithereens. We did not, but the Americans did and we contributed in a small way to it. We do have a responsibility. And we are doing such a wonderful job in East Timor. But it is not the armed forces that are doing the reconstruction there; it is civilian personnel. There are companies based in my electorate of Franklin who are up there rebuilding the infrastructure of East Timor. The only troops that I as a pacifist am happy to see in Iraq are the Japanese, a nation of pacifists. Their constitution forbids them to be involved in a war, to be belligerent. They are there. And what are their troops doing? They are totally committed to the reconstruction of Iraq.

There are all the furrphies about imaginary caucus meetings and imaginary meetings of shadow cabinet. To my mind, as someone who is totally opposed to the war and who has seen all this before, it is like 40 years ago when all the lies were told about our involvement in Vietnam. And then the truth came out. We saw the chaos that was Vietnam and the boatloads of people that were forced to flee the country. They had been given a guarantee: 'If you support the war against communism then we are going to look after you.' The only way we looked after them was to take them into our countries and, in lots of cases, really give them a hard time as they went through the political process of being accepted as refugees.

I am disappointed in lots of my colleagues on the other side, especially those who have a commitment to Christianity, because I think they have let the side down. I say that also at fault, because I know in my heart that I should not be criticising. But on this issue I have a long-held passion that this war was wrong; we should not have been there. Lies were told in order to convince our people that this was a just war—almost, as I said in many of my speeches, that God is on our side; that the issue of pre-emption is one that we should foster and implement, and to heck with the United Nations. For the people on the other side in this debate to say that the Leader of the Opposition—and, I guess, implying the rest of us who support the leader—is not telling the truth about this issue and is doing this for political gain and not the wellbeing of our troops, to my mind is rather rude and crude.

It is interesting to listen to the speeches of those opposite. It is interesting to see what some members opposite have said just recently. I was amazed when the member for Moncrieff, on Thursday of last week, rose to have a go at me in the House. I would encourage all members to read the honourable member for Moncrieff's speech at 4.35 p.m. on Thursday about Iraq, where he tried to rip my arms and legs off because of my opposition to the war. It was interesting to hear the Christian member for Parramatta make what I thought was an absolutely outrageous statement that Mark Latham, the Leader of the Opposition, in his statement about bringing the troops home was akin to almost being up there sucking up to the arch-villain of all time, Osama bin Laden. I do not know what got into the honourable member for Parramatta. He even virtually reiterated that statement here today. I would say to my Christian colleagues: not too many of you put your hands up when the war was on. It is easy to be in the group but, occasionally, when it comes to issues like this—and reconciliation, poverty and dysfunction in families—it is time for us to take a leadership role, rather than being in the pack, howling with the rest of the wolves.

Mr HARTSUYKER (Cowper) (7.03 p.m.)—I rise in this chamber to support the motion put forward by the Prime Minister, supporting our 850 Defence Force personnel currently deployed in and around Iraq. I support the position that no elements of this contingent should be withdrawn until the tasks assigned to them have been completed. To assign arbitrary deadlines for the withdrawal of troops is a simplistic and populist notion that ignores our international obligations, damages our alliance with the United States and ignores the best interests of the Iraqi people as they struggle to establish a fledgling democracy. It sends a dangerous signal that this nation is not absolutely committed to the war on terror. Our troops have served with distinction both in the elimination of the evil regime of Saddam Hussein and in supporting the Iraqi people since.

Our armed forces throughout history have punched above their weight, as they did in Iraq. For example, our SAS personnel have demonstrated an extreme degree of professionalism and have reinforced our reputation as having a highly skilled fighting force. That reputation is reflected across the services. The quality of the contribution of our service men and women to the international effort in Iraq has been noted. Certainly our coalition partners have expressed on numerous occasions their gratitude for the role played by those men and women—those fine ADF personnel.

I do not believe our Defence Force personnel would wish to pull out before the job is done. I do not believe the Australian people would like to see the Iraqis abandoned in the interests of nothing more than cheap populism. The Leader of the Opposition has done his nation and

the international community great harm by formulating Labor's defence policy in the atmosphere of a breakfast radio program. In the space of seven short questions, Mike Carlton was able to influence Labor's defence policy. In the space of those seven questions Mike Carlton had the opposition leader racing off on a populist crusade to grab votes at the expense of the war on terror, to grab votes at the expense of the Iraqi people and to grab votes at the expense of the alliance with the United States. It is a dangerous precedent indeed that such important matters of policy were formulated on the run, without being thought through, in a radio station at breakfast time while people were chewing on their cornflakes.

The Leader of the Opposition is attempting to perpetuate a fantasy that this policy of 'home by Christmas' was somehow formulated at a mysterious shadow cabinet meeting some 12 months ago. It seems that the details of this meeting are at best rather sketchy. In fact, I watched the member for Griffith on the *Lateline* program attempting to defend the opposition leader's position while maintaining some degree of integrity. I watched as the member for Griffith wriggled and squirmed and droned on that 'home by Christmas' was:

... part of a continuum of ... policy development.

An interesting notion. Indeed, some continuum: seven questions on the Mike Carlton show. As the member for Griffith became more and more verbose, the meaning became more and more unclear—a steady procession of 'I don't recall' and 'I can't remember'. It was rather like the member for Fremantle on a bad day: 'I don't recall.'

Of great concern to the fighting men and women of Australia, I am sure, is the revelation that the Leader of the Opposition has also rejected the doctrine of pre-emption. The Leader of the Opposition, a defence policy novice, has taken this decision without detailed advice and has rejected the notion of pre-emption. In other words, we must sit on our hands and wait to be attacked—a clearly absurd position—because we do not want to make a decision for fear of getting it wrong; we do not want to make a decision for fear of being incorrect. It is clearly just lack of leadership and procrastination. Janet Albrechtsen in her article in the *Australian* titled 'Strike against Latham on security' takes up this point and makes the observation:

The naive Opposition Leader's rejection of pre-emption would endanger our national security in the post-September 11 world ...

A most appropriate observation indeed. It is not the Australian way to cut and run. It is not the Australian way to walk out on our friends. It is not the Australian way to abandon the Iraqi people or the US alliance. But it is indeed the opposition leader's way—the way of cheap populism, the way of an unprincipled leader. I am sure the Australian people would not wish to be judged by the standards of spineless populism as advocated by the opposition leader. Iraq, with help, can have a bright future now that the regime of Saddam Hussein has been removed, and Australia can play a role in building that future perhaps in the development of its oil reserves. Iraq has also been an important customer for our wheat over many years. There will be countless opportunities for Australian businesses in the new Iraq. But the new Iraq requires assistance. We on this side of the House believe that if you are going to participate in the new Iraq you have to help with the heavy lifting; you have to help this fledgling democracy through these difficult times of rebuilding after the war.

Labor will abandon this new democracy, this fledgling democracy, in the interests of electoral expediency. An opposition leader whose only yardstick for policy discipline is populism provides this nation with many dangers. A future Labor government which will run from

every difficult decision will endanger our security and endanger our prosperity. It is the difficult decisions in government which can make a nation great. A government which is only going to take the populist line is certainly going to create a second-rate society and a second-rate economy.

I have seen the great work of our troops in Timor, the people of Timor befriending the troops and the great work that Australians have done elsewhere overseas. Whilst there is still work to be done we should not be denying the people of Iraq the assistance that our service men and women can provide. We need to protect our civilian Australians on the ground. I know that, if I was an Australian in Iraq, I would feel greatly reassured by the presence of Australian service personnel to look after our interests.

But the Leader of the Opposition wants to deny them that. The Leader of the Opposition wants to deny our expatriate citizens who are helping in the rebuilding of Iraq the protection that Australian forces can provide and the professionalism that we know our forces have. He wants to take the cheap, populist line. I believe—as do others on this side of the House—that there is still more work to be done in Iraq, and we want to stay around until that work is done. We want our troops back as quickly as possible, but not until our duties have been discharged.

Mr BRENDAN O'CONNOR (Burke) (7.11 p.m.)—I rise to add my comments on this motion. I find it quite extraordinary that the government wants to focus on this matter, because I think that, when the flurry of rhetoric calms down, the conclusion that will be reached by observers of the parliament and of comments made by Labor and government spokespeople will be that this has been an exercise of political game playing by the government.

Firstly, the government decided to prosecute a war without the sanction of the United Nations and chose to embrace the new doctrine of the current incumbent President of the United States of unilateral pre-emptive strike. It did so in the alleged belief that there were weapons of mass destruction located in Iraq and, therefore, for the safety of the world—and, in the case of our Prime Minister, for the safety of Australians—we were to go to Iraq and rid the world of those weapons. That was the basis upon which we embarked on a war. That was the basis upon which young men and women in the defence forces were asked to go and fight and have their lives threatened—that there were weapons of mass destruction.

Because of the report handed down some weeks ago by a joint standing committee, and after great examination of the behaviour and conduct of the intelligence agencies, we know that the Prime Minister, the foreign minister, the Minister for Defence and other members of the executive exaggerated the information they received to justify a war that was not sanctioned by the United Nations and was not supported by most of our traditional allies. Great Britain and the United States were involved. However, there were a lot of sovereign nations who refused to be involved in a war without the imprimatur of the United Nations.

We were told we had to go to protect our interests and look after our security because of weapons of mass destruction. That was the prime basis upon which the Prime Minister made the decision. I think it is very telling that the decision was made by the executive to go to war and then we were able to debate the decision to go to war post facto. It is somewhat absurd that we have a motion to discuss when the troops should come home before they come home but we were never in a position to debate whether we should go to war before the decision was made by the executive to go to war. In other words, the Prime Minister never saw fit to

have the parliament debate and then decide whether we should go to war, but now he wishes us to decide, or at least debate, the issues about returning home.

The Leader of the Opposition made it very clear yesterday that this government has, unfortunately, changed its tune on the way in which our troops will come home. The Leader of the Opposition was able to raise the very likely hypothetical that this Prime Minister would use homecoming parades as part of his capacity to sustain his political survival, his political position. I think it is fair to say that, unfortunately, what has happened is that clearly the government has accepted that it has been found out in relation to that matter. If you look at all the statements that have been made by members of the executive, and these have been referred to earlier, you will see that they fall in line with the comments that were made by the Leader of the Opposition. I will refer to some of those. Firstly, the Prime Minister was recently asked by Laurie Oakes on the Channel 9 program:

But a third of our contingent could be out by May or June?

The Prime Minister said:

Well, the air-traffic controllers could be.

That was referred to by the Leader of the Opposition. Indeed, the Prime Minister was happy to concede that there could be an early return for air traffic controllers. As had been said, we can use the arguments out of the mouth of the Prime Minister himself when he said:

... I do not see Australia, for example, providing peacekeepers.

And the interviewer, Fred Brenchley, went on to say:

So you've immediately ruled that out?

And the Prime Minister quickly responded:

Yes ... I'm saying to you that an ongoing peacekeeping role is not something that I would seek for a moment.

That is what he said when asked by Mr Fred Brenchley for his views. Mr Brenchley went on to say:

So our forces would be in and out fairly quickly?

The Prime Minister said:

Oh yes, very much so. If there is a final Australian military commitment, it will be of a scale that I've mentioned, and we would see it being of a quite short, specific duration. I don't see any increase. I don't see any peacekeeping. We have resisted blandishments to provide peacekeepers in Afghanistan.

He went on to say effectively that there is a specific short duration for our troops to be in Iraq. That is out of the mouth of the Prime Minister in answer to questions asked of him about the duration of the stay of our young men and women in the Australian Defence Force. Those were his answers to the questions asked of him. So it is very clear from those remarks, you would think, unless the Prime Minister was playing loose with the truth, that he had every intention of having them return home soon. I would hope that any Prime Minister of this nation would be working overtime to find a way to minimise the need for troops of the Australian Defence Force to spend time in areas of conflict. I would hope that the Prime Minister, John Howard, would spend as much time as he possibly can contemplating scenarios where we can minimise the danger to our young men and women by having them return home early.

We took at face value the Prime Minister's responses to those questions—responses which he now seems to want to walk away from. He wants to walk away from the fact that, not long ago, when asked about the actual duration, he said:

... we would see it being of a quite short, specific duration.

That is what he said. Now we want to know, of course, why he has chosen to reverse that position. Earlier last year the Prime Minister was asked:

What time frame do you have in mind?

He indicated:

A very short period of commitment. But I won't try to put weeks and months on it. It will be short.

The journalist went on to ask:

Do you see it—

that is, the postwar military contribution—

as months or years ...

The Prime Minister unequivocally confirmed his view. He said:

Well I certainly don't see it as years.

The Prime Minister said on 4 May 2003 that he did not see it as years, so we can only conclude that he saw it as months. Therefore, if he believed that then and he genuinely believes it now, he would agree with members of the opposition that his view coincides with the Leader of the Opposition's view that we want to find a way to bring troops home prior to the end of this year.

Unfortunately, however, I think a number of things happened on the way to bipartisanship. The fact is that the Leader of the Opposition would, quite understandably, have held the view that he was following on from and agreeing with the position that had been put by the Prime Minister, the Minister for Foreign Affairs and the Minister for Defence over the last 12 months. He would have believed that he was within that construct when he made comments about having the troops return home before Christmas. But this did rain on the parade of the Prime Minister, if you will pardon the pun, because, after the Leader of the Opposition indicated that we also want to see the troops come home early, all of a sudden the Prime Minister could not see the political advantage in having the troops come home.

Maybe the Prime Minister was planning not one parade but a number of parades—a sequence of homecoming parades, where the Prime Minister could be standing on stage, gaining reflected glory from the endeavours of our defence personnel. He would have liked to see that, although maybe not during an election campaign; I would have thought he is a bit too tricky for that. He could have had, before calling the election, a number of occasions on which to fraternise with the military who have been fighting for us over in Iraq. He could have reflected their well-earned glory. He is someone who likes to associate himself with the military. Since birth, after having been christened John Winston Howard, he has probably been afflicted with a need to associate himself with the military—not ever having, of course, engaged in any way himself in any military conflict.

The fact remains that the Leader of the Opposition was very up-front with the Australian public. He was very clear about his intention. It is also important to indicate, notwithstanding the hysteria in the last number of days, that everything the Leader of the Opposition said was

rightly conditional on the circumstances being right. His first answer—and I am paraphrasing—was, ‘If we were to be elected in this month, we would hope for and desire the opportunity for them to return home before Christmas.’ I think there were always conditions, because things can change. But the fact is that he was uttering words that were pretty much in common with those of the leading ministers responsible for this matter. I therefore find it unfortunate that the Prime Minister felt the need to distinguish himself from the Leader of the Opposition on this matter.

Yesterday was a fiasco, as the Leader of the Opposition has said. I think that the effort made to almost force opposition members in the chamber to vote against supporting our troops was an outrageous effort. Ultimately, that was more of a misjudgement on the part of the Leader of the House; even the Prime Minister realised how outrageous that was. But the fact is that yesterday was not a success for the government and therefore they decided instead to late yesterday and today place what is clearly an extraordinary amount of pressure upon senior public servants to involve themselves in a partisan argument about troops coming home early. I think it is an outrageous thing for the Prime Minister and his ministers to do. We saw the most extreme example of that when he verbally and monstered the Australian Federal Police Commissioner, Mr Mick Keelty. Everybody in Australia knows that Mr Keelty’s declaration and his attempt to clarify his words were a result of pressure and monsterring by senior staff in the Prime Minister’s office; everybody knows that.

This week we have seen the same. We are seeing a pattern which started with the *Tampa*. I suppose once you start moving down this path of misusing the Public Service, whether it is Defence Force personnel or other members of the Public Service, where do you stop? It becomes a repetitious act. In this case, the Prime Minister has been a recidivist. I think what is happening now is that the Australian public are becoming aware that this Prime Minister will do anything—whether it be monsterring the Public Service, distorting the facts or changing his mind about when to bring home the troops—for his own political advantage. The Prime Minister should be condemned for his actions, and I believe that ultimately, at the election, he will be. (*Time expired*)

Main Committee adjourned at 7.28 p.m.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Australian Taxation Office: Mass Marketed Tax Effective Schemes**(Question No. 1363)**

Ms Jann McFarlane asked the Treasurer, upon notice, on 5 February 2003:

- (1) Is he aware of an article by Tom Baddeley entitled "ATO's tardiness creates a bother" in The Australian on 3 February 2003.
- (2) How many taxpayers have accepted the offer made by the Australian Taxation Office (ATO) to investors in mass marketed tax effective schemes.
- (3) How many of these taxpayers have not yet received an acknowledgement from the ATO.
- (4) What is the average time the ATO is taking to process reassessments once the taxpayer has accepted the ATO's offer.

Mr Costello—The answer to the honourable member's question is as follows:

- (1) and (2) 36 300 investors had accepted the Commissioner's settlement offer by the closing date.
- (3) All investors were sent an acknowledgement from the Australian Taxation Office.
- (4) Times vary as each application is different. Some involve one scheme, some involve multiple schemes, some involve trusts and companies and some are people who are required to lodge an application with their deeds detailing reasons why they should be eligible for the full terms of the settlement offer.

HIH Insurance: Royal Commission Report**(Question No. 2453)**

Mr Murphy asked the Treasurer upon notice, on 18 September 2003:

Further to the answer to question No. 1881 (*Hansard*, 11 August 2003, page 18057), what is the status of the Government's consideration of the other recommendations in the HIH Royal Commission Report?

Mr Costello—The answer to the honourable member's question is as follows:

On 12 September 2003, the Australian Government announced its final response to the findings made by Commissioner Owen (refer Treasurer's press release no. 82/2003).

In particular, the Australian Government has commissioned a technical study of financial sector guarantees and a review of direct offshore foreign insurance and discretionary mutual funds. The Australian Government has also referred those recommendations that fall within the responsibility of the States and Territories, or independent bodies, to them for their consideration.

Australia Post: Internet Access**(Question No. 2847)**

Mr Price asked the Minister for Communications, Information Technology and the Arts, upon notice, on 4 December 2003:

- (1) What level of officer and above are able to use Australia Post computer facilities to access the Internet.
- (2) Has Australia Post Management detected a child and hard core pornography ring in Australia Post using Australia Post Internet facilities; if so, when.
- (3) How many personnel were involved and in which States were they employed.

- (4) How many personnel have been (a) suspended and (b) allowed to resign in each State.
- (5) Who within Australia Post has been conducting the investigations and who is responsible for deciding the management action in relation to those suspected of being part of this network.
- (6) Has the matter been referred to the Australian Federal Police; if so, when; if not, why not.

Mr Williams—The answer to the honourable member's question based on advice provided by Australia Post is as follows:

- (1) Access to the Internet by Australia Post employees is determined by business need, on a case-by-case basis, for final approval by the relevant State IT Manager.
Once access has been approved, an employee is required to give a written undertaking that they will comply with all Australia Post policies and procedures relating to Internet and e-mail usage. They are required to give the same undertaking on-line every time they log on to the Australia Post network.
- (2) No. Australia Post has found no evidence of employees using the Internet to download or source inappropriate material. However, in September 2003 Australia Post began investigating allegations that a number of employees had engaged in inappropriate use of e-mail by circulating material depicting adult sexual activity that had entered Australia Post's network as attachments to e-mails.
- (3) As part of its investigation, Australia Post examined the e-mail accounts of 93 employees in Queensland, New South Wales and South Australia.
- (4) (a) and (b) As at 23 December 2003, in NSW six employees had been suspended, two of whom subsequently resigned and two of whom were dismissed. In Queensland three employees had been suspended, two of whom subsequently resigned. In addition, one employee who had not been suspended resigned and another was dismissed. Investigations continue in South Australia.
- (5) Teams of senior managers were appointed in each of the States concerned to investigate the matter under Australia Post's Employee Counselling and Disciplinary Process. The teams subsequently referred their disciplinary recommendations to the relevant State Business Unit Managers who have the delegation under the process to make a final decision.
- (6) No. Australia Post has a policy of referring all prima facie criminal offences to either the Australian Federal Police or the Director of Public Prosecutions. However, Australia Post did not detect any criminal offences during the course of its investigations.

Public Companies: Extraordinary General Meetings

(Question No. 2863)

Mr Murphy asked the Treasurer, upon notice, on 4 December 2003:

Further to the answer to question No. 2459 (*Hansard*, 1 December 2003, page 23413), will he seek to amend the corporations law to require companies to report on the number of extraordinary general meetings called by shareholders and the number initiated by boards; if so, when; if not, why not.

Mr Costello—The answer to the honourable member's question is as follows:

The Government has no plans to amend the Corporations Act to require companies to report on the number of extraordinary general meetings called by shareholders and the number initiated by boards.

Health and Ageing: Conclusive Certificates

(Question Nos 2918 and 2939)

Mr Danby asked the Minister for Health and Ageing and the Minister for Ageing, upon notice, on 10 February 2004:

- (1) How many conclusive certificates has the Minister issued under each of sections 33, 33A, and 36 of the Freedom of Information Act 1982 in each of the last six financial years.
- (2) In each of the last six financial years, how many appeals against those certificates were (a) lodged with the AAT, (b) successful, and (c) unsuccessful.
- (3) What are the case names of all the appeals lodged with the AAT in each of the last six financial years.

Mr Abbott—The answer to the honourable member's question is as follows:

- (1) (2) and (3) No conclusive certificates have been issued under sections 33, 33A, and 36 of the Freedom of Information Act 1982, from the Department of Health and Ageing portfolio in the last six financial years.

Small Business and Tourism: Conclusive Certificates

(Question No. 2931)

Mr Danby asked the Minister for Small Business and Tourism, upon notice, on 10 February 2004:

- (1) How many conclusive certificates has the Minister issued under each of sections 33, 33A, and 36 of the Freedom of Information Act 1982 in each of the last six financial years?
- (2) In each of the last six financial years, how many appeals against those certificates were (a) lodged with the AAT, (b) successful, and (c) unsuccessful?
- (3) What are the case names of all the appeals lodged with the AAT in each of the last six financial years?

Mr Hockey—The answer to the honourable member's questions is as follows:

I refer to the answer provided by the Minister for Industry, Tourism and Resources to Parliamentary Question no. 2927.

Health: Defend and Extend Medicare Group

(Question No. 2956)

Mr Tanner asked the Minister for Health and Ageing, upon notice, on 10 February 2004:

- (1) Is he aware of the article in the *Herald-Sun* on 5 December 2003 regarding the Defend and Extend Medicare Group.
- (2) Has he, or his predecessor, or any other Minister taken action to obtain information on the identities and backgrounds of members of the Defend and Extend Medicare Group; if so, what action was taken.
- (3) Have any Government agencies outside his Department been asked to assist in obtaining this information; if so, which agencies.

Mr Abbott—The answer to the honourable member's question is as follows:

- (1) Yes.
- (2) No.
- (3) No.

Tax-Free Bonus Awareness Campaign

(Question No. 2960)

Dr Emerson asked the Minister representing the Minister for Family and Community Services, upon notice, on 10 February 2004:

- (1) Is the Government proposing to fund an awareness campaign about a tax-free bonus scheme for older workers who delay drawing a pension.
- (2) Has such a campaign been considered by the Ministerial Committee on Government Communication; if so, (a) how much has his department budgeted for (i) creative production, (ii) placement, and (iii) research, (b) will the campaign be undertaken through (i) television, (ii) newspapers, (iii) radio, (iv) a mail-out, and (v) a website, (c) what is the total budget set aside for this campaign, and (d) what are the budgeted costs for (i) television, (ii) newspapers, (iii) radio, (iv) a mail-out, and (v) a website for this campaign.
- (4) Which (a) advertising company or companies, (b) market research company or companies, and (c) public relations company or companies have been selected to carry out part or all of this campaign.
- (5) Between which dates does he expect this campaign to take place.

Mr Anthony—The Minister for Family and Community Services has provided the following answer to the honourable member's question:

- (1) No.
- (2) No.
- (4) Not Applicable.
- (5) Not Applicable.

Drugs: Postinor-2

(Question No. 2993)

Mr Murphy asked the Minister for Health and Ageing, upon notice, on 11 February 2004:

- (1) What level of training are pharmacists required to have to be allowed to dispense Postinor-2.
- (2) Is he able to say how the level of training, medical and other skills of a pharmacist would differ from those of a medical practitioner.
- (3) What interview and counselling procedures are pharmacists required to undertake in order to form a well-founded opinion that Postinor-2 is a suitable drug for a woman requesting this over-the-counter drug; if no procedures are currently required, when will they be put in place; if no procedures will be put in place, why not.

Mr Abbott—The answer to the honourable member's question is as follows:

- (1) and (2) Pharmacy is a registrable profession under State and Territory law. To obtain registration as a pharmacist a person must have a recognised qualification and complete a period of pre-registration training. Pharmacists must also comply with professional standards and codes of practice.
- (3) Such procedures are left to the professional judgement and training of pharmacists.

Drugs: Postinor-2

(Question No. 2994)

Mr Murphy asked the Minister for Health and Ageing, upon notice, on 11 February 2004:

- (1) In respect of the statements in the June 2003 edition of the *MIMS Annual* at Paragraph 18-1428 that relate to Postinor-2, what insurance risk factors did the National Drugs and Poisons Scheduling Committee consider when making its Supply Mode decision to permit pharmacists to sell Postinor-2 without prescription.
- (2) Is he aware of the statement of 'contraindications' in relation to Postinor-2 that (a) "it should not be given to pregnant women" and (b) "if menstrual bleeding is overdue, if the last menstrual period

was abnormal in timing or character or if pregnancy is suspected for any other reason, pregnancy should be excluded (by pregnancy testing or pelvic examination) before treatment is given”.

- (3) What action will a pharmacist be required to take in order to be satisfied that, when a woman seeks Postinor-2, (a) the woman is or is not pregnant, (b) the woman’s menstrual period is or is not abnormal, and (c) the timing of her cycle is or is not regular or late.
- (4) What insurance is available for pharmacists who sell Postinor-2 in relation to any potential health risks or side effects that a woman might experience by taking Postinor-2; if no insurance exists, what steps is he taking to ensure an appropriate insurance policy is available.

Mr Abbott—The answer to the honourable member’s question is as follows:

- (1) The National Drugs and Poisons Scheduling Committee is not required to consider insurance risk factors when making a scheduling decision. It must take account of relevant matters set out in section 52E of the Therapeutic Goods Act 1989.
- (2) (a) and (b) Yes.
- (3) (a), (b) and (c) The pharmacist is expected to exercise professional judgment and comply with professional standards when supplying Postinor-2. This would include asking a series of questions to determine the answers to the three questions posed. If there is doubt as to whether the woman should take Postinor-2, it is open to the pharmacist to refer her to a medical practitioner.
- (4) It is up to the individual pharmacist to have appropriate professional indemnity insurance in place. At least one organisation offers specialised insurance to pharmacists.

Drugs: Postinor-2

(Question No. 2995)

Mr Murphy asked the Minister for Health and Ageing, upon notice, on 11 February 2004:

- (1) In respect of the statements in the June 2003 edition of the *MIMS Annual* at Paragraph 18-1428 that relate to Postinor-2, is he aware that the following adverse side effects of Postinor-2 are known to occur: severe hypertension, diabetes mellitus with nephropathy, retinopathy, neuropathy or vascular disease, ischemic heart disease, and stroke.
- (2) Can he confirm that the MIMS reference goes on to state that in individual cases the risk benefit ratio should be assessed by the practitioner in discussion with the patient; if so, is the practitioner a medical practitioner; if not, what is his Department’s understanding of the term ‘practitioner’ in this reference.
- (3) Does the term ‘pharmacist’ usually fall within the definition of ‘practitioner’ within the meaning of this reference; if not, what is his understanding of the term ‘practitioner’.
- (4) Does the MIMS reference also state under the heading ‘precaution’: exclude pregnancy if suspected clinically... and perform (breast or pelvic examinations) only if indicated by the patient’s history.
- (5) How will a pharmacist know a patient’s history.
- (6) Was it considered that the only history available to the pharmacist will be as described by the woman at the point of sale; if not, why not.
- (7) Is a pharmacist required to demand a more complete and documented history of the patient beyond what the pharmacist is advised over-the-counter before dispensing the drug Postinor-2; if not, why not.

Mr Abbott—The answer to the honourable member’s question is as follows:

- (1) The June 2003 *MIMS Annual* lists “severe hypertension, diabetes mellitus with nephropathy, retinopathy, neuropathy or vascular disease, ischaemic heart disease, stroke, or a past history of

breast cancer” under the Precautions section as “ conditions which are regarded as relative contraindications”. These conditions are not described in this document as adverse reactions to Postinor-2.

- (2) and (3) Yes. The same statement is included in the approved product information applicable since 1 January 2004, when Postinor-2 became available as a Pharmacist Only Medicine. It is important to note that the instruction to discuss the risk benefit ratio in individual cases refers only to potential users with a relative contraindication, as specified in the answer to question 1. In this context, the practitioner initially identifying the existence of a contraindication may appropriately be a pharmacist.
- (4) Yes. The June 2003 MIMs Annual also states in the ‘precautions section’ that “Breast and pelvic examinations are not routinely necessary”.
- (5) The pharmacist is expected to exercise professional judgment and comply with professional standards, which would include asking a series of questions before supplying Postinor-2.
- (6) Generally, yes.
- (7) The pharmacist is required to fulfil their own professional obligations to the patient prior to supplying Postinor-2. The pharmacist may refer the patient to a medical practitioner should sufficient information not be obtained to allow a proper assessment.

Drugs: Postinor-2

(Question No. 2996)

Mr Murphy asked the Minister for Health and Ageing, upon notice, on 11 February 2004:

- (1) In respect of the statements in the June 2003 edition of the *MIMS Annual* at Paragraph 18-1428 that relate to Postinor-2, can he confirm that the MIMS manual notes that Postinor-2 is not recommended for children and that limited data are available on young women of childbearing potential aged 14 to 16 years.
- (2) What is the definition of ‘child’ with respect to the supply of Postinor-2 without prescription and what age limitations are there on the supply of Postinor-2 to children.
- (3) What safeguards has he taken to ensure adequate guardianship authority is provided to prevent the unchecked supply of Postinor-2 to children.
- (4) What further action is being taken to prevent non-prescription supply of Postinor-2 to children; if no action is being undertaken, why not.

Mr Abbott—The answer to the honourable member’s question is as follows:

- (1) Yes.
- (2) The levonorgestrel Schedule 3 amendment to the Standard for the Uniform Scheduling of Drugs and Poisons (SUSDP) does not include an age limitation or a definition of a child. There are, however, legislative provisions in some States that place restrictions on the supply of medicines to children.
- (3) and (4) Inclusion of levonorgestrel for emergency contraception in Schedule 3 of the SUSDP requires the pharmacist to be involved in the supply of Postinor-2 through the provision of professional advice on its use. The exercise of professional judgement by the pharmacist should preclude supply of Postinor-2 to a child. As noted in the answer above, State law may also be applicable.

Drugs: Postinor-2

(Question No. 2997)

Mr Murphy asked the Minister for Health and Ageing, upon notice, on 11 February 2004:

- (1) What is (a) his Department's and (b) the Scheduling Committee's accepted definition of pregnancy.
- (2) On what basis did the National Drugs and Poisons Scheduling Committee consider the drug Postinor-2 not to be an abortifacient.
- (3) What is the name of the sponsor company of Postinor-2.
- (4) Was the decision of the Scheduling Committee to schedule Postinor-2 without prescription based on the representations of the relevant sponsor company; if not, upon what evidence was this decision based.
- (5) What are the names of the legal counsel who represented the sponsor company with respect to its representations regarding the definition of pregnancy and the scheduling of Postinor-2 without requiring prescription.

Mr Abbott—The answer to the honourable member's question is as follows:

- (1) (a) and (b) The Department and the National Drugs and Poisons Schedule Committee (NDPSC) accepts that pregnancy is defined as commencing with implantation of the fertilised egg.
- (2) The Department has received legal advice that an abortion cannot take place before implantation and that emergency contraceptives that act prior to implantation such as Postinor-2 are not abortifacients. The NDPSC accepted this advice.
- (3) The sponsor of Postinor-2 is Intensive Care Products Pty Ltd.
- (4) The decision to make levonorgestrel tablets for emergency contraception (Postinor-2) available as a Pharmacist Only Medicine was made following consideration of the merits of an application from the sponsor in accordance with section 52E of the Therapeutic Goods Act 1989. The basis of the NDPSC's levonorgestrel scheduling decision is contained in the Committee's record of reasons for the June and October 2003 meetings, which are available on the TGA website at <http://www.tga.health.gov.au/ndpsc>.
- (5) No legal counsel made representations on behalf of the sponsor of Postinor-2 with respect to its levonorgestrel rescheduling submission.

Drugs: Postinor-2

(Question No. 2998)

Mr Murphy asked the Minister for Health and Ageing, upon notice, on 11 February 2004:

- (1) Is a decision of the National Drugs and Poisons Scheduling Committee a disallowable instrument; if not, why not; if so, will he move a motion to disallow the scheduling of the drug Postinor-2; if he will not, why not.
- (2) Has the scheduling of the drug Postinor-2 been gazetted as required by the provisions of the Therapeutic Goods Act 1989; if so, what is the Gazette reference; if not, when will this be done.
- (3) Does the Standard for the Uniform Scheduling of Drugs and Poisons state that a function of the National Drugs and Poisons Schedule Committee is to promote uniform scheduling of substances and uniform labelling and packaging requirements throughout Australia and that the Committee has no legal standing other than that given to it by relevant legislation.
- (4) Does the Therapeutic Goods Act 1989 provide (a) that the Scheduling Committee is required to provide notice, published in the Gazette, of its scheduling decisions, (b) that access to the relevant reasons for a decision may be obtained, and (c) that persons who made initial submissions to the committee may make further ones in the light of the decision.
- (5) Does he have a power now under the Therapeutic Goods Act 1989 or any other legislation to review decisions relating to the listing and registration of therapeutic goods.

- (6) Does he have a power under the Therapeutic Goods Act 1989 or any other legislation to review decisions relating to the scheduling or rescheduling of goods; if not, will he introduce legislation to provide this power.
- (7) What mechanisms exist for the public to respond to a decision to schedule a drug after the process of inviting initial submissions is made; if no mechanisms exist, will he review this situation.

Mr Abbott—The answer to the honourable member's question is as follows:

- (1) No. The amendments to the Therapeutic Goods Act 1989 agreed to by the Parliament of Australia in 1999, which established the National Drugs and Poisons Schedule Committee (NDPSC) as a statutory body, did not define a decision of the NDPSC as disallowable.
- (2) The scheduling of levonorgestrel has been gazetted in accordance with the legislative provisions as follows:
- The intent to consider the scheduling of levonorgestrel for emergency contraception was listed in the pre-June 2003 NDPSC meeting notice, which was published in the Commonwealth of Australia Gazette No GN 16 on 23 April 2003.
 - The levonorgestrel scheduling amendment was included in the post-June 2003 NDPSC meeting notice, which was published in the Commonwealth of Australia Gazette No GN 31 on 6 August 2003.
 - Additionally, as further public submissions relating to the levonorgestrel decision were considered by the October 2003 NDPSC meeting, the final scheduling amendment was included in post-October 2003 NDPSC meeting notice. This notice was published in the Commonwealth of Australia Gazette No GN 48 on 3 December 2003.
- (3) No. It is the purpose of the Standard for the Uniform Scheduling of Drugs and Poisons (SUSDP) to promote uniform scheduling of substances and uniform labelling and packaging requirements throughout Australia. It is the SUSDP and not the Committee which is described as having no legal standing other than that given to it by relevant legislation. The functions of the NDPSC are prescribed in section 52C of the Therapeutic Goods Act 1989. The SUSDP is given legal effect through State and Territory law.
- (4) (a), (b) and (c) Yes.
- (5) Yes. The Minister for Health can be requested to review an 'initial decision' under section 60 of the Therapeutic Goods Act 1989.
- (6) No.
- (7) The Therapeutic Goods Regulations 1990 does not specifically exclude public submissions made outside of the statutory public consultation process from being taken into account by the Committee. As a matter of practice the Committee has taken into account all such submissions including those relating to the scheduling of levonorgestrel for emergency contraception as documented in the Committee's record of reasons.

Family Court: Debt Recovery

(Question No. 3051)

Mr Murphy asked the Attorney-General, upon notice, on 18 February 2004:

Further to the answer to parts (6) and (9) of question No. 2761 (*Hansard*, 11 February 2004, page 24402-3), will he provide full details of the review of the provisions of the Family Law Act 1975 relating to binding financial agreements, particularly the terms of reference and the timeframe for reporting the outcome of the review.

Mr Ruddock—The answer to the honourable member's question is as follows:

On 5 December 2003 I announced that in light of the issues raised by the case Australian Securities Investment Commission and Rich and Rich (No. SY 5067 of 2002), I intended to undertake a review of the provisions in the Family Law Act 1975 relating to binding financial agreements. The purpose of the review is to ascertain whether the original intention of the provisions is being fulfilled.

I have asked the Family Law Council to conduct the review by July 2004. I have given them the following terms of reference.

TERMS OF REFERENCE

That Council undertake a review of the binding financial agreements provisions in Part VIII and VIIIA of the Family Law Act 1975.

1. That Council:

- (a) consider whether the original intention of the legislature is being fulfilled given that the purpose of the provisions relating to binding financial agreements was to allow people to have greater control and choice over their own affairs in the event of marital breakdown¹
- (b) review the extent to which binding financial agreement provisions are being used to defeat the legitimate interests of creditors
- (c) consider alternatives to the current amendments, including whether the legislation should only allow agreements relating to maintenance to come into effect in cases of marriage breakdown, and

2. That Council have regard to:

- (a) the issues identified by the Family Court in Australian Securities Investment Commission and Rich and Rich (No. SY 5067 of 2002)
- (b) Relevant amendments contained in the Family Law Amendment Act 2003 which passed both Houses of Parliament on 5 December.

¹ 'The aim of introducing binding financial agreements is to encourage people to agree about how their matrimonial property should be distributed in the event of, or following, separation'. Senator Patterson, Second Reading Speech *Family Law Amendment Bill 2000*

Telecommunications: Carriers

(Question No. 3055)

Mr Andren asked the Minister representing the Minister for Finance and Administration, upon notice, on 19 February 2004:

- (1) Will the Minister provide a breakdown of the cost of telecommunications to the Government (a) in total, and (b) by the various Government departments for the financial year 2002/2003.
- (2) Does the Government use telecommunications carriers other than Telstra; if so, for which departments and agencies do these other carriers provide services.

Mr Costello—Senator Minchin has provided the following answer to the honourable member's question:

- (1) Responsibility for procuring telecommunications services in the Australian Government is at the Agency Head level. Departments and agencies operating under the Financial Management and Accountability Act 1997 are required to purchase telecommunications under the Whole of Government Telecommunications Arrangements, a framework for the procurement of telecommunications services. Most agencies operating under the Commonwealth Authorities and Companies Act 1997 also choose to use the framework. There are currently 26 providers signed to Head Agreements under the arrangements.

- (a) The total Australian Government expenditure on telecommunications is estimated to be approximately \$450 million per annum.
- (b) It would be necessary to seek expenditure information from each Department separately.
- (2) There are currently 26 providers signed to Head Agreements under the Whole of Government Telecommunications Arrangements. The range of services available from the providers is listed on the National Office for the Information Economy website (www.noie.gov.au). Departments and agencies may have several carriers supplying different telecommunications services. It would be necessary to seek carrier information from each Department separately.

Family and Community Services: Legal Services

(Question No. 3192)

Ms Roxon asked the Minister representing the Minister for Family and Community Services, upon notice, on 01 March 2004:

- (1) How much did the Minister's department spend during 2002-2003 on outsourced (a) barristers and (b) solicitors (including private firms, the Australian Government Solicitor, and any others).
- (2) How much did the Minister's department spend on internal legal services.
- (3) What is the Minister's department's projected expenditure on legal services for the 2003-2004 financial year.

Mr Anthony—The Minister for Family and Community Services has provided the following answer to the honourable member's question:

- (1) \$7 143 699 was spent on barristers and solicitors in the Family and Community Services Portfolio in 2002-03. The FaCS financial reporting system does not differentiate between barristers and solicitors.
- (2) \$3 763 636 for the Portfolio.
- (3) \$11 861 959 for the Portfolio.

China: Union Representation

(Question No. 3252)

Mr Danby asked the Minister for Foreign Affairs, upon notice, on 3 March 2004:

- (1) Is he aware of a recent union election at the Neil Pryde sportswear factory in Shenzhen, China, which produces wetsuits for the Australian company Billabong.
- (2) Can he confirm allegations that the union elections were not held in accordance with Chinese law or in accordance with basic human rights, including that (a) the only candidate for Chairman was a factory manager, breaching Article 11 of the 'Method for Implementing the PRC Trade Union Law', (b) the human resources director of the company was a candidate for vice-chairman, and (c) Mr Liu Youlin was denied the right to stand for election.
- (3) Is he aware that under Chinese law, all workplaces with more than 100 employees are required to have a branch of a union in the workplace and can he confirm that many foreign owned or run workplaces do not comply with these requirements.
- (4) Is China a member of the International Labour Organization (ILO); if so, (a) is China a signatory to conventions 87 and 98 on the rights to freedom of association and collective organisation, and (b) is he able to say whether China is complying with ILO conventions 87 and 98.
- (5) Since 1996, has Australia taken any action or made any representations to the ILO or any of its bodies about China's compliance with the above Conventions; if so, (a) when, (b) to whom, (c) by whom, and (d) what was the response; if not, why not.

- (6) Since 1996, have there been any motions or debates before the ILO or any of its bodies, including general and specific observations and freedom of association cases, about China's compliance with the above Conventions; if so, could he provide (a) the texts of the motions, and (b) a list of all votes for, against, and abstentions on, each motion.
- (7) Is China a signatory to the International Covenant on Economic, Social and Cultural Rights (ICESCR); if so, (a) has China taken any reservations on Article 8, relating to the rights of individuals to form and join free trade unions, and (b) is he able to say whether China is complying with Article 8 of the ICESCR.
- (8) Since 1996, has Australia taken any action or made any representations before any body under the ICESCR about China's compliance with Article 8; if so, (a) when, (b) to whom, (c) by whom, and (d) what was the response; if not, why not.
- (9) Since 1996, has any body under the ICESCR made any comments, or have any motions been moved, about China's compliance with Article 8; if so, could he provide (a) the texts of the motions, and (b) a list of all votes for, against, and abstentions on, each motion.
- (10) Has the issue of China's compliance with ILO Conventions 87 and 98 been raised at the Australia-China Human Rights dialogue; if so, (a) when, (b) to whom, (c) by whom, and (d) what was the response; if not, (e) why not, and (f) will it be raised at the next opportunity.
- (11) Has the issue of China's compliance with Article 8 of the ICESCR been raised at the Australia-China Human Rights dialogue; if so, (a) when, (b) to whom, (c) by whom, and (d) what was the response; if not, (e) why not, and (f) will it be raised at the next opportunity.
- (12) Has the general issue of trade union freedoms in China been raised at the Australia-China Human Rights dialogue; if so, (a) when, (b) to whom, (c) by whom, and (d) what was the response; if not, (e) why not, and (f) will it be raised at the next opportunity.
- (13) Has the case of the deprivation of basic human rights at the Neil Pryde factory been raised at the Australia-China Human Rights dialogue; if so, (a) when, (b) to whom, (c) by whom, and (d) what was the response; if not, (e) why not, and (f) will it be raised at the next opportunity.

Mr Downer—The answer to the honourable member's question is as follows :

- (1) Yes.
- (2) I have no information other than that contained in the report in the *New York Times* on 29 December 2003.
- (3) According to the Trade Union Law of the People's Republic of China, workplaces are required to set up Primary Trade Union Committees if they employ more than 25 workers. If they employ over 100 employees, employers should provide necessary facilities for trade unions to handle official business. I have no information on the extent of non-compliance with China's trade union law among foreign-owned companies.
- (4) Yes. (a) No. (b) Not applicable.
- (5) No. Australia has never taken such action against any country in the ILO.
- (6) No.
- (7) Yes.
 - (a) China made the following statement on ratification: The application of Article 8.1 (a) of the Covenant to the People's Republic of China shall be consistent with the relevant provisions of the Constitution of the People's Republic of China, Trade Union Law of the People's Republic of China and Labor Law of the People's Republic of China.

- (b) The Government is concerned that some aspects of these laws may be inconsistent with international human rights instruments.
- (8) No. Australian delegations to successive rounds of the bilateral Human Rights Dialogue urged China to sign and ratify the ICESCR with a minimum of reservations.
- (9) No.
- (10) to (12) Australian delegations to successive rounds of the bilateral Human Rights Dialogue have raised with the Chinese delegation general concerns about labour rights and freedom of association, without eliciting any substantive response from the Chinese. The Government intends to continue to raise these issues as appropriate at future rounds of the dialogue.
- (13) No. The most recent round of the Dialogue was held in July-August 2003. The Government will consider closer to the time whether it would be appropriate to raise this case at the next round of the Dialogue.

Finance: Purchasing Policies

(Question No. 3273)

Ms O'Byrne asked the Minister representing the Minister for Finance and Administration, upon notice, on 4 March 2004:

- (1) Based on the data collected for contracts and standing orders over \$2000 or more, is the Minister able to say what proportion of Government purchasing is sourced from suppliers based in regional Australia.
- (2) What practical measures has the Government put in place to ensure government agencies source goods and services from regional Australian suppliers.
- (3) What practical measures has the Government put in place to ensure suppliers in regional Australia are aware of government purchasing policies and tendering procedures.

Mr Costello—The Minister for Finance and Administration has supplied the following answer to the honourable member's question:

- (1) Financial Management and Accountability Act 1997 (FMA Act) departments and agencies (agencies) are required to report contracts, agency agreements and standing offers with a value of \$2,000 or more in the Gazette Publishing System (GaPS). The main purpose of GaPS is to provide transparency and accountability in relation to agencies' procurement activity. The system does not collect any information that would enable the Australian Government to reliably determine the proportion of total agency procurement that is sourced from suppliers based in regional Australia.
- (2) The Commonwealth Procurement Guidelines (CPGs) specify that the core principle governing procurement by FMA Act agencies is value for money. Within this framework, the CPGs require agencies to ensure that Australian and New Zealand industry, particularly small and medium enterprises, have appropriate opportunity to compete for business. This includes agencies being able to demonstrate that they have taken into account the capability and commitment to regional markets of small businesses in their local regions. These requirements do not constitute preference policies favouring regional Australian suppliers. Such policies are precluded under the Australian and New Zealand Government Procurement Agreement.
- (3) The Australian Government procurement policy framework applicable to FMA Act agencies is detailed in the CPGs. The Department of Finance and Administration (Finance) has made the CPGs publicly available on its website together with whole-of-government procurement guidance developed to assist agencies. Finance also provides advice on Australian Government procurement policy to agencies and industry, particularly small and medium enterprises, through the Purchasing

Advisory and Complaints Service. These measures are complemented by a number of others which facilitate industry access to Australian Government business, including:

- centralised agency reporting of publicly available business opportunities on the Government Advertising website;
- AusTender, a web-based application that enables suppliers to be notified automatically of publicly available Australian Government business opportunities as they are posted, to access associated documentation online and to submit tender responses electronically;
- the Business Entry Point, an online resource which enables Australian businesses to comply with government requirements more simply and conveniently by providing free online access to essential information and services; and
- the Endorsed Supplier Arrangement, a whole-of-government supplier pre-qualification arrangement covering information technology, major office machines, commercial office furniture and auctioneering services.

Family Court: Debt Recovery

(Question No. 3283)

Mr Murphy asked the Attorney-General, upon notice, on 9 March 2004:

- (1) Further to the answer to question Nos 2761 (*Hansard*, 11 February 2004, page 24402) and 2763 (*Hansard*, 11 February 2004, page 24403), did his terms of reference to the body reviewing the financial agreement provisions in the Family Law Act 1975 allow for the consideration of any proposed amendments to the Family Law Act to be retrospective so they would apply to former One-Tel Managing Director, Mr Jodee Rich and Ms Maxine Rich; if not, why not.
- (2) In respect of the review, (a) who will conduct it, (b) when will it begin, and (c) when will it be concluded.

Mr Ruddock—The answer to the honourable member's question is as follows:

- (1) No. The Government does not consider this to be a necessary part of the review.
- (2) As indicated in my response to question number 3051, (a) the review will be conducted by the Family Law Council, (b) the review has already commenced, (c) I have asked the Family Law Council to conclude the review by July 2004.