Bill presented and read a first time.

Ms SCRYMGOUR (Environment and Heritage): Madam Speaker, I move that the bill be now read a second time.

The purpose of this bill is to protect the Northern Territory from becoming the dumping ground for the nation’s nuclear waste. It is about protecting the environment of the Northern Territory, the health of Northern Territorians and the industry of the Northern Territory. It is about protecting the wonderful reputation the Northern Territory has as one of the most pristine places on earth. The intention of this bill is to prevent waste from outside the Northern Territory being transported into the Northern Territory and stored in the Northern Territory.

In the event that a national nuclear waste disposal facility is proposed for the Northern Territory, the bill provides the minister with the capacity to seek an injunction to prevent such action. If works on a facility have already been taken, the minister may authorise action to remove the facility and make good any environmental harm. This bill does not relate to the transport, storage and disposal of radioactive waste produced within the Northern Territory.

There already exists a range of acts that cover this. The Mining Management Act places environmental and safety controls on uranium mining and waste disposal. The Radioactive Ores and Concentrates (Packaging and Transport) Act controls radioactive products from uranium mines after they have left the mine. The Radiation (Safety Control) Act places safety controls on radioactive substances such as those used in laboratories and hospitals. Parliament has already determined that this act is to be replaced by the improved provisions contained within the Radiation Protection Act.

The Radiation Protection Act applies to less than 1% of the nation’s nuclear waste. None of these wastes are high level waste. Some 90% of Australia’s nuclear waste derives from Commonwealth activities and, in particular, the operations of the nuclear reactor at Lucas Heights run by the Australian Nuclear Science and Technology Organisation, or ANSTO. It is this waste, which includes the highest grade nuclear waste in Australia, that this government does not want to see dumped in the Northern Territory.

The issue of radioactive waste disposal has been a national issue for almost 30 years. Up until recently, the Howard government has consistently maintained that a single national repository for radioactive waste was the best and safest option. They
embarked on a protracted search around Australia for the best site. They determined that it was in South Australia, and then sought to impose it on the people of South Australia who very vocally opposed it. The Parliament of South Australia also opposed it. They have passed legislation similar to this bill, and so has Western Australia. However, then the Prime Minister got cold feet, and there is a federal election and marginal electorates have to be saved.

On 14 July, the Prime Minister announced that the Commonwealth would abandon its plan and instead establish a single disposal facility on Commonwealth land that would house the Commonwealth’s radioactive waste and the nation’s intermediate level waste. States and territories could manage their own low level radioactive waste themselves and, according to the Prime Minister, this was all South Australia’s fault for opposing the facility in the courts and winning.

Notwithstanding that the signs clearly illustrated that South Australia was the best spot for any such facility, the Prime Minister announced that the new Commonwealth facility would not be located in South Australia after all. We all know South Australia is off the Commonwealth’s hit list because there are some marginal electorates. We know that the federal government is looking for a site on Commonwealth land - although not necessarily on land that they own at the moment - and while the Commonwealth will not announce their intentions until after the election, there can be no doubt that the Territory will be under consideration.

In South Australia, there was almost unanimous opposition to the proposed dump, especially from politicians. Unfortunately, that is not the case in the Northern Territory. In the Northern Territory, we do not have a bipartisan, unconditional opposition to being the home of this national nuclear dump. Clearly, this situation makes this bill even more important if we are to prevent this occurring.

The CLP member for Solomon has suggested that it is the obligation of the Northern Territory to be the home of this dump if his own federal government determines that the Northern Territory is the best place. The CLP member for Solomon gave the green light for Canberra to dump their waste in the Territory. He has not been rebuked by his party. He has not been rebuked by the Leader of the Opposition. He clearly has the support of his party and the support of the CLP opposition and its leader …

Dr Lim: Have you asked Bob Collins what he did in his report under the Keating government?

Ms SCRYMGOUR: This government’s position is absolutely clear. The Territory produces less than 1% of Australia’s radioactive waste …

Dr Lim: Ask Bob Collins what he did in his report.

Madam SPEAKER: Order! Member for Greatorex, allow the minister to finish her speech.

Ms SCRYMGOUR: We are happy to manage our own radioactive substances, which are at the lower end of the scale, but we are not willing to be the dumping ground for the rest of Australia. The Chief Minister has written to the Prime Minister indicating
this position, but this bill goes further. It will send a clear signal to Canberra that Territorians do not want the nation’s nuclear waste, and that they are in for a fight if they choose to proceed. The legislation proposed in this bill will be one of our strongest weapons in this fight.

It might seem obvious and self-explanatory, but it is important to outline why the government opposes a nuclear waste dump in the Northern Territory. First and foremost, it is the responsibility of any government to act on behalf of the people, and it is clear that the people of the Northern Territory do not want this dump. The Northern Territory is known throughout Australia and the world as one of the last great wildernesses. Our clean and green great outdoors has a pristine reputation. A nuclear waste dump does not just compromise that reputation - it destroys it. Not only do Territorians not want this nuclear dump because they care for the environment and their health, they love the lifestyle that our environment provides.

Industry also is threatened, especially tourism which is such a vital component of industry and employment in the Northern Territory. Leading figures in the tourism industry have already spoken out in outrage at the message being sent to potential tourists by the member for Solomon. It is not only tourism. The Minerals Council has come out and also voiced their opposition to the facility, particularly in relation to its impact on exploration.

Representatives of our two biggest industries oppose this dump, yet the CLP and the member for Solomon have ignored this. They have argued that there might be some money in it for us if we agree to take this dump. It would have to be an enormous amount of money to compensate for our tourism industry. Tourism is our biggest employer - a nuclear waste dump will never be able to compensate for that. The economic cost of a nuclear waste dump on the Territory will clearly outweigh any small benefits, and we should not put our industry and jobs at risk in such a short-sighted way.

We should also not take at face value the proposition that the best option is to put this waste in a single facility thousands of kilometres away from its source of production or use. The handling and transport of these wastes presents a significant additional risk factor. I am not arguing that there would never be sound reasons for consolidating this waste at a regional scale, but transporting it across the continent seems unnecessarily risky, and the arguments in favour of doing it are certainly not compelling.

This is particularly apparent when we look at comments from the major source of these wastes, ANSTO. In public comments and submission to a recent New South Wales parliamentary inquiry, ANSTO is reported to have indicated that it safely stores its current nuclear waste, and can continue to do so in the future. If this is the case, then why move it?

ANSTO seems to be having a bet both ways. One is left wondering whether their desire to move their waste to a single national repository away from Sydney has more to do with enhancing public acceptance of a new nuclear reactor at Lucas Heights than it does about proper waste disposal. In fact, as 90% of Australia’s nuclear wastes are currently stored at Lucas Heights I could, perhaps a little provocatively, suggest
that it might make more sense for the remaining 10% of wastes to be transported to Sydney.

I am sure there is a presumption in people’s minds that a national repository will do away with the need for local storage, so that the increase in risk from transporting the waste across Australia might, to some extent, be offset. Unfortunately, however, this is not the case. Under the Commonwealth government’s previous proposal – and, one might presume, this latest proposal - the waste would be shifted every two to five years. Therefore, instead of doing away with storage areas, we end up with more. The bottom line for Territorians is that, even if we host the national facility, we would still need storage close to the point of production or use because the truck simply would not be visiting the national dump weekly.

In stating the Territory government’s position, I am very aware that radioactive materials provide important benefits to Territorians and the wider Australian community - in nuclear medicine, mining technology and research. Some have sought to couple the acceptance of these benefits with acquiescence to a national waste disposal facility wherever the Commonwealth government may choose to put it. This argument clearly does not hold at several levels. If we accept the benefits of nuclear medicine, then absolutely we have a responsibility to manage the wastes that are generated in the Territory. However, it certainly does not automatically follow that we should blindly accept a national waste disposal facility where the arguments in favour of such a facility simply do not stack up.

Furthermore, the proposition that the waste generated from Lucas Heights is the necessary by-product from our access to radioactive substances for medicines and research, is not universally held. Other technologies are available for producing at least some of the radioactive substance used in medicine without the use of nuclear fission. Certainly other developed countries access these products without a domestic nuclear reactor.

Clearly, there is a strong case for at least having a thorough look at minimising the generation of these nuclear wastes before we blindly accept that we need to look for a hole in the ground somewhere. Nuclear medicine will not become any less available to the community if we do not have a national nuclear waste dump. Our clear responsibility lies in safely storing and disposing of the wastes generated in the Territory. In many cases, this means near the site at which it is produced or generated.

To this end, my colleague, the Minister for Health, recently introduced a major overhaul of the regulatory regime for radioactive substances by introducing the Radiation Protection Act. If, as a result of this debate, some inadequacies come to light with respect to the existing management of radioactive substances, then this government will not shy away from fixing any problems. This is, after all, why the new legislation was introduced. The Leader of the Opposition, in a media release dated 28 July, called this legislation ‘a meaningless political stunt’ and seemed to be almost pleading with the Commonwealth to exploit the fact that we are not a state, and overrule this legislation. Worryingly, the member for Solomon, a member of John Howard’s government, has also pointed to the capacity of his government to overrule the Territory government.
Let me make it very clear that the Northern Territory government has an absolute mandate to introduce this legislation. The Northern Territory (Self-Government) Act makes it clear that the disposal and storage of hazardous, dangerous waste is the domain of the Northern Territory government. The Prime Minister, when speaking on this issue on 19 July, ruled out taking advantage of the fact that we are not a state when he said the rights of the Territory will no less be respected than the rights of other parts of the country. The rights of the Territory would clearly not be respected were the Commonwealth to overrule this legislation.

This bill legislates to prohibit a nuclear waste dump to the full extent of the Territory parliament’s capacities. It would be wrong for me to propose that this bill, when enacted, would offer some sort of cast-iron guarantee that there will not be a nuclear waste dump in the Territory - it does not. The capacity of the Territory to regulate Commonwealth instrumentalities has limitations and the Commonwealth can, if they wish, remove our right to legislate on this matter. Both South Australia and Western Australia have similar legislation, with similar limitations. Although the CLP member for Solomon is trying to make sure the Territory is an easy target, this legislation ensures we will not become a soft touch.

This bill sends a strong message to Canberra that if they want to override the Territory on this issue, they will do so against the express wishes of Territorians.

I commend the bill to honourable members

Mr BURKE (Brennan): Mr Acting Deputy Speaker, I seek to make a few remarks before the shadow minister adjourns debate.

There are times when this House descends into high farce. I would suggest to you that what we have heard this morning is an example of that. It is indicative of the fact that a junior minister is now taking the lead on an issue that has been the subject of pronouncements of the Chief Minister in the past. It reminds me of the old adage that the monkey is loose while the organ grinder is absent. That is, essentially, what we have here. However, what is important is that the seriousness the government places on this legislation is indicated by the status of the minister who is presenting it. That is the first thing I would say.

My second point is that I would emphasise my agreement with the Leader of the Opposition that this is a cheap political stunt! In fact, when I chose to make comment when this issue was first raised, the media representatives I talked to said they were not interested because they thought it was simply that – a cheap political stunt.

The government will try to make mileage of it. I suggest to the minister that she may have been handed a bit of a problem here because, if you want to bring in this sort of legislation and you want a mature debate on it, let us have it. Firstly, let me say that I have only had time for a cursory glance at this legislation - which the minister pronounces to protect Territorians – and it says in clause 5 – and note this:

A provision of this act relating to the transport, storage or disposal of nuclear waste does not have any effect …

Does not have any effect, I emphasise:
... to the extent that it is inconsistent with a law of the Commonwealth.

The minister stands in this House and purports to present legislation, carries on with gobbledygook and, somehow, thinks the average Territorian is so dumb that a junior minister is now going to be the protector of their welfare, whilst the Chief Minister is noticeably absent because she does not get herself involved in cheap political stunts.

Ms LAWRIE: A point of order, Mr Acting Deputy Speaker! The member for Brennan well knows he cannot draw attention to a member’s presence or otherwise in the Chamber. I ask that he withdraw the comment.

Mr ACTING DEPUTY SPEAKER: Yes, please withdraw the comment about the ...

Mr BURKE: The Chief Minister is absent from presenting the legislation! I have made no reference to the Chief Minister being – in fact, I will say that the monkey is here and the organ grinder is absent. So in that regard, I am at fault for suggesting that the Chief Minister, the organ grinder in this case, is absent.

Mr ACTING DEPUTY SPEAKER: Member for Brennan …

Members interjecting.

Mr ACTING DEPUTY SPEAKER: Order! Member for Brennan, could you withdraw the statement that the Chief Minister is absent, please?

Mr BURKE: I withdraw.

Mr ACTING DEPUTY SPEAKER: Thank you.

Mr BURKE: It is very important when the minister gives her media statements about the fact that she has now introduced this wonderful legislation, she addresses clause 5 straight up, which says: ‘disregard all of the second reading speech because in clause 5 of the act it says this law matters zip insofar as it is inconsistent with any law of the Commonwealth’.

Do not suggest for a moment to anyone that this law protects Territorians against onerous or dominant Commonwealth action which, I might add, the Commonwealth has not suggested. Rather than suggesting that the Commonwealth is going to establish a nuclear dumping facility in the Northern Territory, what they should be addressing, and what this debate will address when it comes on, is what the Commonwealth government has said - that the states and territories are responsible for the disposal of their own wastes.

If you want to bring in this legislation, firstly we want an informed debate on how this Labor government currently disposes of its own radioactive wastes in the Northern Territory. If this debate is to be informed, it is the responsible action of the government to produce papers in this Chamber to inform us of the current status.
I request the minister provides all the information. I want the names and locations of current storage sites in the Northern Territory. I know where there is one. Rather than worrying about what the Commonwealth is going to do, there is one right next to Casuarina shopping centre - isn’t there, minister? You are the minister for the environment. How about the Minister for Health? There is one right in Royal Darwin Hospital. It is about 30 feet from patients’ beds. I would like to know, minister, what is the capacity and standard of storage of that facility? I would like to know, minister, what audits you have done on your own facilities?

If you want to bring debate in to this Chamber, I will be demanding that the minister demands of this government …

Members interjecting.

Mr BURKE: It would nice to be heard in a bit of silence. I listened to the second reading speech in silence.

Madam SPEAKER: Order! Could we all just settle down? There is too much shouting and yelling going on.

Mr Kiely: It is another shot at the leadership.

Madam SPEAKER: Member for Sanderson, did you just hear me?

Mr Kiely: Yes, Madam Speaker.

Madam SPEAKER: All right. It applies to you to.

Mr BURKE: Madam Speaker, I will be demanding - and I believe it is the only responsible action of this government - that they produce in this Chamber the location of every radioactive storage facility currently in use in the Northern Territory, under whatever act or legislation they are currently supervised.

To be assured of the standard and quality assurance of those sites, I would like to know what audits the government has conducted since it has been in government. I would also like produced in this Chamber any report that has been done for the Northern Territory government in the past 10 years relating to the storage of radioactive waste in the Northern Territory. I know there is at least one.

Minister, if you want to stand up here and be the protector of Territorians let us just lay down, for everyone’s benefit what the current situation in the Northern Territory is; what reports have been produced for the Northern Territory government over the last 10 years; and what audits are in place on the current facilities that we have in place in the Northern Territory, so that we can all approach this debate from an informed position.

Sadly, minister, your second reading speech does not provide any scientific evidence on which to conduct the debate. I also ask you this: the Vice-Chancellor of Charles Darwin University, Dr Helen Garnett, who is a nuclear scientist ...
Dr Burns: No, no. She is a microbiologist. Get your facts straight.

Mr BURKE: Has a background in nuclear science …

Dr Burns: She is not a nuclear scientist. Get your facts straight.

Members interjecting.

Mr BURKE: If you want to denigrate the Vice-Chancellor of Charles Darwin University …

Dr Burns: I am not denigrating her. Look at her CV.

Mr BURKE: I ask this: why are you getting so upset?

Members interjecting.

Mr BURKE: This is supposed to be a very serious issue that you want …

Madam SPEAKER: Member for Brennan, would you speak to me.

Mr BURKE: I am actually bemused that the government is so sensitive. On the one hand, they ask for Territorians to be protected against onerous action by the Commonwealth, and yet they seem to be very sensitive about just answering some simple questions for this parliament. I will repeat them again. Detail to Territorians every location of every radioactive facility in use in the Northern Territory. Detail to Territorians any report that has been produced for the Northern Territory government over the last 10 years relating to the appropriateness or otherwise of how we store radioactive waste in the Northern Territory. You might also add an addendum to that: what have you done since you have been in government to improve that situation which will give us an informed basis to deal with our own responsibilities? I would like to see the Northern Territory government produce a paper - I suggest Dr Helen Garnett as she would be eminently capable of producing such a paper - to inform this parliament of exactly what we are discussing, concerned and worried about: what are the implications of what could happen to the Northern Territory and what are the wastes that can be stored? Dr Garnett might want to do an audit herself of the way we currently store our own wastes in the Northern Territory.

Finally, I would ask the minister to reply to clause 5, which says the legislation provides no protection against any act or law that is passed by the Commonwealth …

Mr Bonson: It is called the Australian Constitution.

Mr BURKE: ... and more than that, it says …

A member: You are weaselling.

Mr BURKE: Have you read this? It has been on your desk for about the last 15 minutes.
Dr Toyne: Yes, we have read it in detail.

Members interjecting.

Mr Bonson: And we still have not heard what the CLP’s policy is.

Madam SPEAKER: Member for Millner!

Mr BURKE: I am used to the childish chatter that comes along. We are highly paid politicians. Staff are employed to produce this legislation.

A member: What’s your position? Give us your position?

Mr BURKE: You not sit there like a monkey and listen to the second reading speech and say: ‘Oh, that sounds good’.

A member: Give us your position.

Mr BURKE: Here is the legislation. It has been on your desk for the last 15 minutes. If you want to make a comment, make an informed comment.

Members interjecting.

Mr Ah Kit: Stop being provocative.

Mr BURKE: And you cannot say anything, minister. You are still trying to figure out the difference between a starving hippo and a fat hippo.

Members interjecting.

Mr BURKE: Madam Speaker, I apologise. They provoked me.

Madam SPEAKER: You should withdraw some of those remarks that you have made that are unparliamentary, and address your remarks through me. You do not call people the sort of things you have been calling them. Withdraw them. Get on with your debate and address your remarks to me.

Dr Toyne: Well, withdraw them.

Madam SPEAKER: Did you withdraw?

Mr BURKE: Which remark? I am sorry, Madam Speaker, I am happy to withdraw.

Madam SPEAKER: You know you were making remarks across the floor ..

Mr BURKE: I said that the minister is still trying to figure out the difference between a starving hippo and a fat hippo. What is so bad about that?

Madam SPEAKER: Yes, but you got into a debate where you called them certain names.
Mr HENDERSON: A point of order, Madam Speaker! The member for Brennan referred to either the member for Millner or the member for Sanderson as a monkey. That is unparliamentary and he should withdraw.

Madam SPEAKER: He did.

Mr BURKE: I said that you do not sit there like monkeys, but if it is offensive to you, I apologise and withdraw.

It is very important, Madam Speaker …

Members interjecting.

Mr BURKE: I do withdraw.

Madam SPEAKER: Speak to me, member for Brennan.

Mr BURKE: Thank you Madam Speaker. I want to emphasise clause 5(2) of the legislation - and it is very important - which has a qualification to say this act has no capacity to effect any law of the Commonwealth, and it goes on to say:

(2) This act does not apply in relation to –
   (b) nuclear waste –
      (i) derived from radioactive material used in accordance with a legislative authority ...

I ask the question: is the Commonwealth a legislative authority, and is Lucas Heights a facility owned or operated by a legislative authority?

Mr Baldwin: One would think so.

Mr BURKE: One would think so. The point I want to make is that this is nothing more than a cheap political stunt railed out by a minister who has been given the notes and the front task, who will prove to be suitably embarrassed, and tries to promote legislation that by a quick reading of clause 5 has no capacity to protect Territorians whatsoever.

A responsible government should be talking to the Commonwealth and understanding exactly what the Commonwealth’s position is, and we know what it is. Territorians should know also, that the choosing of potential sites around Australia, including the Northern Territory, came from the Keating Labor government. The position of the Prime Minister is clearly this: states and territories are responsible for their own wastes. You satisfy this House that you are attending to our own wastes; you produce the documentation that …

Ms Scrymgour: I said that. Didn’t you listen to any of that? Didn’t you hear me say any of that? You chose to only - you have selective hearing.

Mr BURKE: Very sensitive. You have a glass jaw.
Ms Scrymgour: You are being sensitive.

Mr BURKE: Finger pointing as well.

Ms Scrymgour: Why don’t you support it? Do you support it or not?

Madam SPEAKER: Order!

Mr BURKE: I think she has the floor, Madam Speaker.

Mr Baldwin: Don’t get too toey.

Madam SPEAKER: Member for Brennan …

Ms Scrymgour: I am not getting toey. You are the ones who are getting toey. That is why you …

Madam SPEAKER: There is too much cross-Chamber chatter. Let the member for Brennan finish his remarks.

Mr BURKE: Thank you, Madam Speaker. The opposition intends to approach this debate in as mature a fashion as we are able.

Following a quick reading of the legislation, I have given a couple of examples of where, *prima facie*, it fails miserably. I have asked the government if they are genuine in their endeavours. Has the government convinced Territorians that they have been attending to - through audit and by appropriate safeguards with world practice standards - our own wastes in an appropriate manner, and that they will continue to do so? Put all that information on the table, together with a paper from Dr Helen Garnett, or someone similar, and inform honourable members of the situation so that we can have a suitable debate.

Madam Speaker, I seek leave to continue my remarks at a later hour.

Leave granted.

Continued from 18 August 2004.

Mr BURKE (Brennan): Madam Speaker, I understand I have 30 minutes to conclude my comments, and, given the importance of this legislation, my comments should take no more than five minutes because this legislation protects the Northern Territory against an issue that does not exist.

It not only does not exist as an issue, we have been assured by the Howard government which, with the strong support of the Australian population, has been re-elected to another term in government, that the option of a nuclear dump, not only in the Northern Territory but in any other state of Australia, is off their agenda and they are pursuing other options. The reality is the Northern Territory was never on the
Commonwealth government’s agenda, and if it was on any government’s agenda, it was on the agenda of a number of previous Labor governments because this issue has been around since 1992.

I said when this legislation came before us that it was high farce and nothing but a scare campaign to run a political issue in order to mislead Territorians and gain votes on an issue that had no substance and did not exist. I am very pleased that, notwithstanding the concerted campaign that has been run by the Labor government of the Northern Territory, using the clout and capacity of the Chief Minister as their lead speaker on this issue in the media during an election campaign, that Territorians have returned the object of their allegations and derision back with an increased majority - not only the Howard government, but Mr Tollner himself. It is pleasing that Territorians have seen through the spin and recognised the exact nature of the statements that he made, and with the benefit now of evidence that came to the public’s attention at the end of last week, he has been proved to be correct, certainly in saying that there has been radioactive waste lying around the Northern Territory that is not properly stored.

I believe that the real issue for the Northern Territory government is to do what they were asked to do when this bill was first introduced. I asked them if they wanted a mature debate on this issue to present information to the public, to Territorians, about what the current storage standards are in the Northern Territory; where the dumps are in the Northern Territory that contain radioactive waste; whether those dumps comply with legislation that exists in the Northern Territory or Australia-wide, and what audits have been done on those storage methods.

The government gave the impression to the general public that they were going to introduce this legislation, which was very important in their mind, had the opportunity to do so last week, gave every indication they were going to bring the legislation on last week, and did not do so. The reason they did not do so is beyond me, but it demonstrated one thing: the legislation had no real importance in the government’s mind.

As I said at the outset, they gave it to a junior minister to run in the parliament. It was only ever a political exercise, and it deserves appropriate importance: it is a non-issue for the Northern Territory. When it comes to dumps anywhere else in Australia, that is for other states to argue.

From the clear statements by the federal minister responsible, there is no dump going to be established in the Northern Territory so there is nothing to fear. What he did say, and what Territorians need to know, is what confidence they can have in their Northern Territory government as to what dumps they have and what standards they are applying to make sure that there is no danger to the public or to our environment from those wastes.

The ultimate hypocrisy is that the minister who has carriage of this legislation, the member for Arafura, ran a scare campaign amongst Aboriginal communities in the Northern Territory, and knew that she had radioactive waste in a shipping container in Kakadu, in her own electorate, and chose not to tell anyone. That is the allegation I make against the member for Arafura. As far as credibility goes, you have none; you
have absolutely none.

I hope the member for Arafura reflects on the statements that she made in this parliament last week with regards to radioactive waste in the Northern Territory. This is the minister responsible who has been consistently running a scare campaign in Aboriginal communities on the damage that could be caused to our environment by radioactive wastes being improperly stored when she either knew that there was waste in her own electorate in Kakadu National Park, or, I hope this is not the case, was sadly unaware of it. She said in this parliament that where deficiencies in legislative controls have been identified, it has been this government that has fixed them through the new Radiation Protection Act. The current Radiation Safety Control Act sat on the books since self-government in 1978. Within three years of coming to government, Labor has completely overhauled these controls, introducing new legislation which reflects modern best practice.

I would like the member for Arafura to tell me under what standards, and what act in the Northern Territory or otherwise, does it allow radioactive waste to be stored in a steel shipping container in Kakadu National Park and whether she would like to retract the fact that Labor, within three years of coming to government, has fixed them because that is clearly not the case.

It was only in the ABC news on the day of the federal election that we heard the report that said that, while Labor was campaigning heavily against a Commonwealth nuclear waste dump in the Northern Territory, the government has now confirmed it has two licensed low-level waste storage facilities. Royal Darwin Hospital is storing about 2 m³ of nuclear material, while the disused Mt Todd mine site houses about 15 contaminated industrial mining gauges. The government says both are safe and secure facilities. However, the Territory government has blamed the Commonwealth for storing radioactive mining waste in shipping containers in Kakadu National Park.

It seems to me it is a government that is good at blaming everyone else, but does not even know how to attend to its own backyard. If you have been three years in government, have such a concern about radioactive waste in the Northern Territory and have been charged by the Commonwealth, clearly, not to worry about nuclear or radioactive waste from any other jurisdiction in Australia, but to attend to your own radioactive waste properly, and you run a scare campaign amongst Territorians that we should be scared of Commonwealth action, you are absolutely silent when it comes to any information of any worth as to what you are doing with your own radioactive waste. It is only by discovery that Territorians find out that we have radioactive waste in a steel shipping container in Kakadu National Park. If that is not an embarrassment, what is? It is not good enough to say: ‘That waste has been there for years’.

You are the government that said it is a whole new era of enlightenment since Labor came to power. You are the government that said that you have the utmost concerns for the environment. You are the government that said that you have the utmost concern that any radioactive waste would be stored properly in the Northern Territory. Yet you are the government which has been exposed in ensuring that Territorians were not aware of what waste was being stored in the Northern Territory.
You are the government that had every opportunity, and you can check the *Hansard* debate for my call - and I said it publicly - to give us the information. If you want a mature debate, give us the information. I suggest that you get some experts to look at previous reports. I also said in the debate I knew that there was at least one report that referred to radioactive waste in the Northern Territory. This government, which talks about transparency and honesty, chose not to give anything to the public except some statement from the minister in the House last week when she was speaking on another issue, and somehow suggests that because she is a minister who can parrot a text that has been written for her, that we should have confidence.

Tell me, minister: if you did not know that radioactive waste was stored in a shipping container in Kakadu National Park, in your own electorate, how can we have any confidence that radioactive waste being stored at Royal Darwin Hospital is being stored to the appropriate standards of the Commonwealth and the Northern Territory? How can you possibly stand up, notwithstanding anything you say in this Chamber today, and expect any Territorian to believe you? They won't. You have no credibility. Your credibility has gone. I told you that you were a sucker and a monkey when you ran this legislation and you were given carriage of it.

**Madam SPEAKER:** Member for Brennan, withdraw that remark! Just withdraw it. It was unparliamentary.

**Mr BURKE:** I withdraw it

**Madam SPEAKER:** Yes.

**Mr BURKE:** In my defence, in the context of the organ grinder and a monkey, the Chief Minister has taken the responsibility of being the lead in the public on this issue. She is the one who has had her face in front of the television cameras and ads against David Tollner in the last election. In fact, it still needs to be discovered whether that breaches any electoral law because she has used public money, I believe, to run …

**Ms Lawrie:** Wrong!

**Mr BURKE:** … a political campaign. Right. Okay, paid for by the ALP. When it comes to carriage of the legislation, it is the minister for the environment who has carriage. The Chief Minister is missing. That is why I say one can hardly see the importance of this legislation in terms of its carriage when the Chief Minister is absent. One cannot see the importance of this legislation when the …

**Ms LAWRIE:** A point of order, Madam Speaker! The member for Brennan well knows the standing order in relation to the presence or absence of members in the Chamber.

**Mr Dunham:** He did not say she was absent from parliament. He said she was absent from the debate.

**Madam SPEAKER:** Absent from the debate is the way I took it.
Mr BURKE: What is particularly telling in this whole tawdry episode is that the government, that has had every opportunity to present information to the public, notwithstanding the history as to what government was in control in at the time, about what is the true state of radioactive waste in the Northern Territory. Is there any chance of our environment being affected? The map that I saw of the waste that is in Kakadu indicates it is right on the banks of the South Alligator River.

If the minister says: ‘Oh, yes, but there is no chance of it leaching into the environment’, how can you have any credibility? You have none, absolutely none.

I ask the question: as the Minister for the Environment and Heritage and having carriage of the health portfolio and a minister who has been around to say to the Aboriginal communities that radioactive waste is a danger in the Northern Territory and we are going to protect you from it, what has she done in the three years that she has been in government to investigate whether or not potable water being used in Aboriginal communities breaches international radioactive standards? Does she know that communities are concerned? Has she taken any interest in those issues, or has she been a puppet to run a radioactive argument of which she has no knowledge and no capacity?

The legislation is irrelevant. As I said, it purports to protect the Northern Territory against an issue that does not exist. It was always a political exercise and continues to be a political exercise. We said that at the outset. The effort that government has put behind this legislation demonstrates that clearly. The fact that it is being debated today, after the federal election when they had every opportunity to demonstrate to Territorians their interest in this, demonstrates that fact.

We did say that the legislation was not only high farce, but if it purported to have any capacity at all, clause 5(1) needs to be removed because it says:

A provision of this act relating to the transport, storage or disposal of nuclear waste does not have any effect to the extent it is inconsistent with the law of the Commonwealth but the provision must not be taken to be inconsistent with that law if it can be complied with without contravention of that law.

The legislation has no bearing whatsoever if it is inconsistent with a law of the Commonwealth. In layman’s terms, that says if the Commonwealth wants to do it, has the capacity to do it, can legislate to do it, this legislation has no bearing, merit or standing. We wondered why you would include that clause in the bill.

We proposed an amendment. We have been told that, on the advice of the Solicitor General, by removing that subclause, it would be in contravention of the Australian Constitution, but no information other than that. This is a government that works on media releases; it does not provide any information of any worth to the opposition.

If I may digress, the issue that the Leader of the Opposition raised today is a classic case in point: Territorians and the opposition need to be informed properly. The water front development may be a great development, but we have the responsibility to be properly informed, which does not mean briefings by ministerial staff or media releases.
This is a classic example, too. The government says the opposition’s amendment has no standing because the Solicitor General says it may breach the Australian Constitution. I would like to see that advice. I hope the minister tables it. More than that, we would have liked the opportunity to spend more time looking at the advice and seeking further advice. If it were any other legislation, I guess we probably would, but because this is nothing more than a political stunt, and we know that the government has no real interest in it, the political opportunity has now passed, we are just going through the motions, who would really bother?

I ask the question: why doesn’t every item of legislation introduced in the Northern Territory parliament have that disclaimer? By virtue of the Northern Territory (Self-Government) Act being subordinate to any act passed by the federal government, it is a given. Why doesn’t any other legislation in this parliament have that disclaimer?

I ask a further question: on the one occasion when the Northern Territory felt that it really would bring on a fight with the Commonwealth government on an issue that we knew would involve the debate and interest of Australians fully, it was called the Rights of the Terminally Ill Act. That act was subordinate to the Commonwealth if the Commonwealth decided to act arbitrarily on it. Where was our disclaimer in that legislation? Would we have proposed an act that we felt could have been dealt with onerously by the Commonwealth? Do you imagine a guy like Marshall Perron would say: ‘We had better include a subclause, when we introduce the Rights of the Terminally Ill Act, that says “but this act has no bearing if it contravenes any act of the Commonwealth”.’ We did not. It seems to me that the Solicitor General’s advice is unsatisfactory, and I have not even seen it, in logic, and I wonder why he would or give that advice.

However, assuming it is there, I would like to have interrogated it further, but I have no interest in doing it, and I am sure that the government does not really have any either. This legislation is on the parliamentary agenda. It will be passed today. We do not really care what you do with it, frankly. It has no bearing, it has no merit, it has no worth and it is a waste of time, Madam Speaker. So, proceed. You will not have our objection.

Debate suspended until after Question Time.

VISITORS

Madam SPEAKER: Honourable members, we have some visitors in the gallery. Our visitors are Year 7 students from Casuarina Street Primary School in Katherine accompanied by their teacher, Ms Anna Absalom. On behalf of all members, I extend to you a warm welcome.

Members: Hear, hear!

NUCLEAR WASTE TRANSPORT, STORAGE AND DISPOSAL (PROHIBITION) BILL
(Serial 243)

Continued from earlier this day.
Dr LIM (Greatorex): Madam Speaker, I want to add my comments on this bill. The fact that it has been a charade all along, the deceit that this government has tried to put on Territorians in the lead-up to the federal election is bad and pathetic. It is really a shame that the government has to resort to such acts to get some mileage for their federal campaign.

I draw members’ attention to the minister’s comments when she introduced the bill in August. She spoke about protecting the environment, the health of Northern Territorians, the industry and protecting the wonderful reputation of the Territory in having all these pristine places.

If we were protecting the Territory, you would think that the government had a full inventory or knowledge of all the repositories that we have spread across the Territory. Following today’s Question Time, it is evident that the minister, the government, is not fully aware. For the government not to be aware and then try to pretend that it is there to support Territorians and their view that we should not have repositories in the Territory in the misleading way that they have done it, to me, is most unprincipled.

If you go back some 12 years ago, let me read to you from a paper that was produced by the federal parliament, titled A Radioactive Waste Repository for Australia: Methods for Choosing the Right Site. In its introduction, and I will read a couple paragraphs:

>This paper provides a report for public discussion on phase one of a project to identify a suitable site for a national near-surface repository for our radioactive waste. The project was announced by the Honourable Simon Crean, MP, Minister for Primary Industries and Energy, on 1 June 1992.

So it is something that side of the House and their party started some 12 years ago. It describes a process where they were going to identify areas around the country. It has three phases to it. Phase one was a study, which is the one I am reading from, that was to be undertaken over June to September 1992. Phase two was going to be 1992-93 and, finally, phase three in the year 1993-94, when a site was going to be identified.

With that study came several papers produced by eminent scientists and parliamentary committees to look into it. It was 1995 when Bob Collins, in fact, tabled the document as the then Minister for Primary Industries and Energy, and I read from the publication National Radioactive Waste Repository for Australia: Site Selection Study - Phase Two 1994 and a report on public comment, November 1995. From page 2 of the report:

>On 18 July 1994, the Minister for Primary Industries and Energy, the Honourable Bob Collins, released for public comment the discussion paper A Radioactive Waste Repository for Australia: Site Selection Study - Phase Two.

This is not something that is new. This has been around for well nigh 12 years. At the end of the day, the federal government, in the name of Minister Ian Campbell, came down and said: ‘There is not going to be a nuclear waste dump in the Northern
Territory imposed upon it by the federal government’. He assured Territorians without any equivocation.

On the same day that Ian Campbell made that statement, we had the Chief Minister who, in an ad in the federal campaign, had this to say. It is a Northern Territory Labor Party 2004 election advertisement, which was televised on Channel 9 TV in Darwin, spoken by the Northern Territory Chief Minister, Clare Martin:

The Territory is a great place to live and visit, with its clean and unspoilt environment, which is why my government is fighting to make sure Australia’s nuclear waste is not dumped in the Territory.

She already had the reassurance of the federal minister that this was not going to happen. For her to then continue with that ad, over and over again, is nothing but deceit. This is not truthful. This is misleading Territorians every time the ad ran on Channel 9. For them to say: ‘Well, the party paid for it so that means it is all right’, is not all right for someone like the Chief Minister to articulate such a point. It is deceitful of the Chief Minister to do that.

Then, last week, when this matter was the first item on the agenda for Government Business on the Wednesday following General Business Day, this matter was postponed on the Notice Paper all together until today. Had they been serious about this matter, they would have debated it last week; and they did not. You have to ask the question: why? It makes you feel very cynical when this government decides, time and time again, when they do things; it is really not for the betterment of Territorians.

Last week, we debated the storage of hazardous material and, at that time, I made a few comments. I had briefings from officers from the Department of Health and from WorkSafe about how radioactive material had been handled. You will recall a point that I made then: that radioactive ore is transported from Ranger uranium mine to the Port of Darwin at least once a month in 44 gallon drums that are loaded into 40 foot shipping containers. I have not worked out how many drums would be in each container but, obviously, there are quite a few drums, therefore making up several containers, which will then be lined up at the port. When I asked the officers at the briefing what the ambient radioactive level is outside the containers, the answer was that they did not know. When I asked if you happen to have two rows of containers side-by-side with a small aisle in the middle for inspectors to walk between the two rows of containers, what would happen to them - would they be exposed to a level of radiation that is not acceptable - the answer was that they did not know. I have yet to hear from the department as to what those levels are going to be.

Interestingly, over the weekend, we found out that there are two containers of radioactive waste material sitting in Kakadu at Gunlom Falls. At the briefing, I was not told about these two containers. Either the officers knew about it and did not tell me, or they did not know. When I put the question to the minister this afternoon asking what he knew about it, his answer was he did not know. Really, he used lots of words, but what he said was he did not know what was there and what efforts or procedures had been used to get those containers at Kakadu checked out.

Obviously, this government has no control over this. The Minister for Employment,
Education and Training does not know. The Minister for the Environment and Heritage, who has been going around scaremongering in Aboriginal communities about radioactive waste material, was not aware either because she did not tell us anything about it when she presented the bill six weeks ago during the August sittings.

You need to ask: what is this government up to? Is it trying to scare Territorians, using ‘radioactivity’ as an emotive word, ‘nuclear waste dump’ as emotive words to make people to react? ‘Not in my backyard’, is the most common reaction you will hear. If the government did that to frighten people, to politicise the argument rather than using the argument to ensure that we are going to get the best form of management of nuclear waste, then it is the wrong thing for the government to do.

There are at least 2 m³ of radioactive waste material that has been stored in the basement of Royal Darwin Hospital. To date, I have not seen it myself. I only have the words of officers to assure me that everything is in order. If I have not been informed properly about these two containers that are at Gunlom Falls, then can I also rely on the officers’ advice that the repository in the basement of the Royal Darwin Hospital is safe? I don’t know. Perhaps it is something that needs to be further investigated and the minister needs to come in here and give us assurance that it is a safe place. Until you know that, you are not going to be satisfied that we are going to be living with a radioactive lump of whatever in the basement of the hospital for the next four or five generations of Territorians. That would not be adequate at all.

It is important for the minister to understand that if you want to try to bring this sort of thing into legislation, you have to be able to reassure Territorians that you have the best method of control, and that you have the department and the officers there doing the work that is necessary to be done. At the moment, as the minister said, there are four or five departments all having various levels of control over radioactive material.

Wouldn’t it be better if you can bring it together under one agency and then the other agencies, which have something to do with it, can at least then report to the single agency in over-arching way? Until you do that, you are not going to be able to assure Territorians that you have the right institution there.

With those few comments, Madam Speaker, I suggest to you that this legislation was put together by this government in a hurry during the federal election campaign just to make political mileage. Then, at the end of the federal campaign when they saw that this thing was going to fall off its wheels, they decided to abandon it all together and leave it until this week to debate the matter out.

As you saw, the minister was very keen to jump to her feet to try to gag the rest of the debate that should occur. This is clearly a sign of a government that is not honest in its dealings with this matter. They want to try to get it over quickly and for the minister to gag debate as quickly as she can so that no one hears what the reality is.

Mr VATSKALIS (Mines and Energy): Madam Speaker, this is very important legislation, despite attempts by the opposition to somehow link it with the federal campaign.
The problem is we had a federal member who said on public radio that it was our obligation to accept radioactive waste from the rest of Australia. We do not think so, Madam Speaker. We have no problem with storing our own nuclear waste. After all, we use some of these radionuclides or isotopes for medical reasons. We use some equipment that has nuclear material in it in the mining industry, and we have no problem at all with storing that in our area, and we do that very well.

We object to the assertion that we have an obligation to store national nuclear waste. After all, other states did not think it was a good idea to have national nuclear waste stored on their sites. South Australia was one where we saw bipartisan support; both the Labor and Liberal parties objected to the attempt by the Commonwealth to impose upon South Australian a nuclear waste site or repository, as they call it. In Western Australia, exactly the same thing happened.

I am not at all pacified by statements by Senator Campbell that they are not going to establish a nuclear waste site onshore in the Territory. I am alarmed. Let’s not forget that, for immigration reasons, the Commonwealth excised our islands so illegal immigrants arriving at the Tiwi Islands cannot claim to have arrived in Australia. To tell you the truth, I would not be surprised if they decided to excise one of the 800 or so islands we have offshore from the Territory for a nuclear waste dump. That would be very alarming news. It is the last thing that we need here.

Many people do not object to the fact that there is a need for a national waste dump. What they object to is the way the Commonwealth went about trying to impose this waste dump on any state or territory. It would be a better idea if the Commonwealth had the guts to sit down with the Territory and the states and discuss the whole issue.

Coming back to the discussion today and Question Time, I am alarmed. It looks like the opposition is attempting to prepare Territorians to accept such a national repository site in the Territory and they are trying to prove that there are already nuclear waste sites in the Territory.

A few days ago, we heard that the Royal Darwin Hospital site that was not very safe until Senator Scullion came out and said it was a state-of-the-art storage area. I recall members on the other side saying that some of the nuclear waste was incinerated, which is totally and absolutely untrue. After all, the incinerator at Royal Darwin Hospital has not operated for a number of months now because the hospital is using an autoclave.

Then they tried to prove that there is a nuclear waste disposal site at Mt Todd. That is absolutely untrue. The case at Mt Todd is that there are 15 gauges that have been used in the past in the mining industry as density measures, flow meters, or to measure the density and quality of welding. These gauges use radioactive material. They can be used tomorrow and should a new mine open tomorrow that requires this kind of equipment, my department is prepared to provide these gauges to the mining operators to be utilised for the purpose of their construction. That is the reason they have not been decommissioned or destroyed. We choose to keep them all together at Mt Todd because it is a mining site falling under the Mining Management Act and regulations. There is sufficient storage area, and it is under the protection of an enclosed environment and can be supervised by competent personnel.
Returning to nuclear waste, there are two types of radioactive or nuclear waste. There is the naturally occurring radioactive material, known as NORM, and waste materials containing nuclear reactor products. These are the isotopes and the material that we use for medical diagnosis or, in the case of cancer, for treatment. The NORMs are waste from the mining industry and relate to mine tailings, particularly from uranium mining. Let us not forget that until the 1970s, there were a number of uranium mines operating in the Territory, all of them under the control of the Commonwealth, not the Northern Territory government. The only one that does operate under the Mining Management Act is the Ranger uranium mine in Kakadu. That is the only facility that currently operates under the terms of the Mining Management Act.

At the end of the operation of uranium mines in the Territory, most of which are within the Kakadu National Park area, the Commonwealth undertook a rehabilitation program. I recall that the first time I became aware of the problems in the Gunlom area was 1998 when my family went camping and I came across a sign, which had on it the international radiation symbol and warned people not to stay for extended periods of time in the area because some of the tailings from the old uranium mine had been uncovered by rain. The Commonwealth intended to undertake cleaning and rehabilitation of the site.

In 2000, the Commonwealth, within the Commonwealth-administered Kakadu National Park, excavated the tailings, placed them into drums, put the drums into containers and put these containers in interim storage in a fenced compound in the Gunlom area of Kakadu. They are managed and monitored by the Commonwealth. That was the year 2000. In the year 2000, the party in power was the CLP. When this operation took place by the Commonwealth, there are two possibilities: either the CLP government of the day and the department assessed the waste and found that the tailings, the waste, had very low levels of radioactivity; or they did not, or were unable to apply their act because it was on Commonwealth land.

The reality with NORMs, such as tailings, is that the radiation levels are very low and, in some cases, so low that if they are placed in a drum, there is no radiation detected outside the drum or, if they are placed in a container or even in a compound, you cannot detect radiation. In some other cases, such as Rum Jungle, the Commonwealth cleaned up the mine, they buried the waste and then sub-contracted the Territory to construct a cutting to cover those wastes effectively so no radiation will be emitted, or no water will be find its way in to the tailings and, in turn, contaminate the water table or water courses.

To try to blame this government now, in 2004, for something that happened under their government is very hypocritical, to say the least. Once again, I say that what happened in Kakadu took place under the authority of the Commonwealth. The rehabilitation was done under the Commonwealth, as it was their obligation because they operated the mines under Commonwealth control and authority, and they are currently under the control and monitoring of the Commonwealth and of the Office of the Supervising Scientist.

Other forms of radioactive material that we have in the Territory are drill samples
from the uranium project at Coronation Hill. They are stored at El Sharana camp in the south of Kakadu. We are talking about samples of drilling. These samples of drilling are used every day in the mining industry. What you get out of these samples has an extremely low percentage or content of uranium and it is uranium that is not enriched. It is uranium that has not been processed, and is naturally occurring in the area. The radiation levels from these cores are extremely low.

Even in the Ranger Uranium Mine, processed uranium is extremely low in radiation emission because after the uranium oxide has been put into drums and containers, it has to be exported to processing plants in Asia, America and Europe to be enriched, and it is the enriched uranium that emits a significant amount of radiation that is significantly dangerous to the environment, human beings and other animal forms. So we are talking about an extremely low content of naturally occurring uranium in the area.

There are other radioactive core samples - we have some in the Cold Store in Darwin and we have a purpose-designed facility to house this material. We are proceeding with construction of an upgrade of the storage facilities.

To say that in the Territory we already have a radioactive material waste site is absolutely untrue. The only ones we have are two licensed sites. Let me rephrase that: to say we have a waste disposal site the way it is proposed by the Commonwealth, or the way that it is alleged by the opposition is untrue. We have two licensed sites. One is at the Royal Darwin Hospital that houses medical waste with a very short half-life, or very little radiation emission, and we have the other one at Mt Todd that houses 15 mining gauges that are not waste; they are equipment that has been taken apart. They are still there and are still going to be operated. They can be utilised by other mining operations.

Madam Speaker, the purpose of the legislation we are putting in place is to stop any other material from outside the Territory coming to the Territory for storage in a national waste disposal facility.

I was very interested to hear the comments by the member for Brennan regarding the amendment. I have been advised that the legal opinion with regard to the amendment was hand delivered yesterday afternoon to the Leader of the Opposition’s office. It was given to one of the Leader of the Opposition’s staff. It was mentioned that it was a legal opinion and the staffer commented that she was going to pass it to the members of the opposition because at the time, they were in a meeting. So that, Madam Speaker, shows that a letter was delivered. Obviously, it did not reach the Leader of the Opposition, but it was not the fault of the government and he probably should make inquiries with his staff members.

Again, it is amazing how the disposal of nuclear waste and the transport of nuclear material has become an issue in the Territory in 2004. I well recall in 1998 when a container containing iridium 192, a radioactive isotope, fell off the back of a truck at the Berrimah lights, and it was a big scare in the Territory at the time. We had the emergency services mobilised. The traffic was diverted. No one was allowed to stop there because, quite rightly, we were afraid that the way the isotope was transported was not safe. If the container had ruptured, the area might have been contaminated.
with a significant cost to the Territory and we would not know who was contaminated. The incident was so bad, and the legislation was so bad, that some of my colleagues in Environmental Health worked very closely with the people in the Health Department to redraft the *Radiation Act* to cover the transfer of radioactive material. Today, we have modern legislation and, to their credit, they did an excellent job.

It is amazing how everything was right then but everything is wrong now, especially having the member for Brennan as our Health minister, because I was working then in the Health Department, come out publicly and say there was nothing wrong, everything was fine with the act, and everything was safe for the disposal and storage of radioactive material. All of a sudden, it has become an issue not for any other than political reasons.

To blame us for the comments made by the member for Solomon is very unfair. I recall at the time I was in Katherine and, driving back, I heard on the radio a statement made by the member for Solomon talking about a large number of drums with radioactive material disposed all around the countryside in the Territory. I was surprised about it because I have been around in the mines, and the Territory generally, and I never came across abandoned drums somewhere in the bush, in Kakadu or anywhere else. I was aware of the cleaning that took place in Gunlom. I was aware of the drums that were full of tailings from the cleaning up. Tailings are not concentrated radioactive material. It is soil that can be or may have been contaminated by some of the uranium ore excavated from the mine sites. I was certainly aware that these drums were housed within the containers in the Kakadu area.

Regarding the points made about the Ranger uranium mine and the spill of contaminated water, the water was actually processed water. The Office of the Supervising Scientist found out that there was no significant effect impacted upon the environment from the release of this water. There has to be an ongoing investigation and assessment of the possible effects on human beings who consume that water, but certainly Magela Creek and the area did not show any changes in the presence of uranium in the water.

Again, most of the contaminated processed water from the Ranger uranium mine is actually within the mining lease, as expected under the *Mine Management Act*. Under the act, mines have to supply a Mine Management Plan every year to the Department of Mines. The plan is assessed and the Department of Mines continues its assessment and audits on an annual basis or more frequently if required.

The other radioactive material, which is actually core samples, is stored in Jabiluka at Djarr Djarr, which, again, is in the Jabiluka lease area. Because it is a mining lease, they have to provide a Mine Management Plan to the department. The department will assess the Mine Management Plan and conduct audits at regular intervals in order to ensure compliance with the Mine Management Plan and to ensure that there is not any possible contamination of the environment by some of this radioactive material.

Once again, I stress that, in the case of Ranger, the naturally occurring uranium is very low, extremely low. From that point of view, you do not have any
contamination; only when it is converted to uranium oxide. Uranium oxide content is low. It still has to be processed and enriched in certain plants in America and Europe in order to become suitable for use in reactors.

The legislation is very good. As I said, we have no objection to storing our own nuclear materials. We have an obligation to store our nuclear materials that we use in the Northern Territory for medical purposes, for treatment or diagnosis. We have an obligation to store the material we use in mining operations. However, I do not feel obliged to have a waste site here in the Territory to store materials that are produced or utilised by other states and territories in Australia.

Visitors

Madam SPEAKER: Honourable members, I acknowledge the presence in the gallery of students from Milingimbi Community Education Centre accompanied by their teacher, Mr Stuart Porteous. On behalf of honourable members, I extend a warm welcome to you.

Members: Hear, hear!

Mr ELFERINK (Macdonnell): Madam Speaker, it is curious that last week this high priority legislation, which was so important immediately prior to the federal election, suddenly slipped from number one to number five on the Notice Paper, effectively killing it off for debate last week.

Second, it is curious that the Chief Minister was so passionate about this issue that she had to take advertising, paid for, according to members opposite, by their own party, and had to absolutely drive this message home. I am curious as to whether we are going to hear from the Chief Minister during this debate now that the federal election has come and gone.

What is nuclear waste? What is this stuff that we all find so interesting that we are prepared to spend money, taxpayers or parties’ money, taking out advertising about it? Ever since we have been making bombs out of this stuff, hysteria has surrounded this material. Once upon a time, when Marie and Pierre Curie were playing with pitchblende and such products, creating radium, it was considered the miracle stuff, the light you had when you did not have visible light; the stuff that made X-rays possible. From miracle stuff, it went to become very sinister when we realised how toxic it was and that you could make nuclear bombs out of uranium isotopes like U235.

There are all sorts of different disposable or waste items. You either have the isotopes themselves, uranium and its isotopes, iridium, as we have heard, and its isotopes, and the stuff that is contaminated, and that comes in all shapes and forms. If this stuff is so evil, why does the Northern Territory produce it? The reason is that not all nuclear products are necessarily evil. We all know someone who, at one point or another, has had cancer. How do we treat cancer? We can either do it chemically with chemotherapy or with a nuclear product. One of the many and varied isotopes
produced in the Lucas Heights reactor, which is the reason that reactor runs, is used in medical treatment of cancer, and very successfully. Non-Hodgkin’s Lymphoma is treated with radioactive isotopes. However, as a consequence of that, you have waste products.

It is curious how we pursue these waste products down the line to the point where they are finally stored. You have high, medium and low level waste products, and we are told that about how nuclear products are all very bad and the Commonwealth has to find a place to store the stuff, and not in our backyards and all that sort of thing. It becomes a matter of hysteria. Once you see the international symbol for radioactivity, as we saw on the Labor How to Vote card at the last election, once you see the word ‘nuclear’ crop up, people become a little bit nervous.

It is curious that the Territory government has repositories and the federal government has dumps. It is curious that the Northern Territory government produces by-products and the federal government produces waste. The fact is that if we want to use the vernacular generated by members opposite, there is a nuclear waste dump in the middle of the northern suburbs underneath Royal Darwin Hospital. If you want to use the vernacular in an attempt to generate hysteria in the last week leading up to the election, there is a nuclear waste dump in the middle of Kakadu National Park, and I have to say slightly up-hill in the catchment area of the South Alligator River.

I do not know about you, Madam Speaker, but it is my understanding that at least once or twice a year, it rains in Kakadu and as a result of that rain, water flows down hill and water would flow from this nuclear waste dump, or repository, towards the South Alligator River. Yet the government expects us to believe that the quality of their nuclear waste is somehow superior, different, more noble perhaps, than the quality of the nuclear waste that is produced by the federal government at Lucas Heights.

Radiation is radiation is radiation. I do not propose to suggest that the government has a nuclear waste dump in the middle of the northern suburbs. What I do propose is to suggest that the Northern Territory government has engaged deliberately and calculatedly in an effort to stir up hysteria about nuclear waste in the Northern Territory. That is what the campaign was about last week; it was not anything other than to stir up hysteria.

Why was it so important that this bill came on now? It was all part of the campaign. The government wanted to take this legislation in to the period leading up to the sitting week prior to the election. What did it want to do? It wanted to talk about the nuclear waste dump issue and how they were going to legislate it away and we were going to be tough and what were those miserable so-and-so’s from the CLP going to do in terms of looking after the federal government’s nuclear waste.

So bad was it that the Chief Minister spent Labor Party funds running advertising on the television. That is how bad this was all going to be. Now, why, if that is what the government’s intention was, was there suddenly an urge last Thursday to shift it from number one to number five on the Notice Paper? There is an interesting question. Two words, Madam Speaker: Senator Carr.
What did Senator Carr say to people in the Northern Territory about the Australian Labor Party’s policy for the future of biological material in the Northern Territory? What was the Labor Party’s policy for the Northern Territory in terms of biological material? This is interesting because it is another one that makes people a bit nervous, words like ‘anthrax’, ‘smallpox’, ‘SARS’ suddenly start to crop in to the vernacular.

Senator Carr, a member of the Labor Party, used the words ‘anthrax, smallpox’ and ‘SARS’, among a few others if memory serves me correctly, and he said it was the Labor Party’s policy to put a $60m institution here in Darwin to study these diseases. The minister came into this House last week and said: ‘Oh no, there are going to be no bugs there’. The fact is that there were going to be bugs there. The fact is that there were going to be bugs there.

Ms Lawrie: No, there were not.

Mr ELFERINK: Oh, yes there were! He said so.

Ms Lawrie: No, he did not.

Mr ELFERINK: He did! The member for Karama said: ‘No, he did not say it’, but the fact is he did say it and he identified the bugs. So concerned was Senator Carr in terms of the bugs, he reassured Territorians about the filtration systems and other protections that would be in place so that there would be no such outbreak. This is curious. If the bugs were not going to be there, you only had the material to study, the files that were sent up from down south, maybe e-mails, and so sensitive are these e-mails and files that you needed special filtration systems and the like to protect Territorians from the bits of paper that were going to be studied. Rubbish!

Second, Senator Carr said that this was a potential terrorist target. Why did he say that? Because protections would have to be put in place to make sure that it was safe from terrorist attack.

Let us now talk about political opportunity. One would think that if members opposite were running this hysterical campaign about nuclear waste and Senator Carr promised to spend $60m introducing anthrax, SARS and smallpox to the Northern Territory, there might be some concerns raised by this side.

The government was fully aware of this at the time and that is why the matter was shifted from last week to this week. Why? Because now it is a dead issue. It has ceased to be interesting. It is curious how this sudden change happened, and that is the reason why the government stepped away from debating this last week, because they knew they would be inviting debate on this topic.

The government now has a bill before the House that says this bill is subject to anything that the Commonwealth basically wants to do. That is a fairly soft section, and without having seen the legal advice that was offered by the …

Ms Scrymgour: You received it last night.

Mr ELFERINK: Without having seen it. I can tell honourable members - well I can guess for honourable members how the Solicitor General made his observations: any
legislation that a state has which is inconsistent with Commonwealth legislation, the Commonwealth legislation will have superiority so far as that inconsistency exists. That is pretty much how the Northern Territory legislation has been treated since the time of self-government. It also applies to a state, I might add.

The Commonwealth is fully capable of passing legislation forcing the Northern Territory and/or any other state into taking a nuclear waste dump. Now, they are certainly not going to do that, despite the scaremongering in which the member for Casuarina engaged by saying: ‘Which island off the coast of the Northern Territory is going to cop this?’. The federal government said they are not going to do that, and that was clearly outlined despite the fact that the government of the day, the Territory government, continued to run their fear campaign.

That inconsistency exists, but that applies to every single item of legislation in the Northern Territory. Not every single item of legislation in the Northern Territory has a disclaimer written into it saying the operation of Commonwealth legislation will have superiority. It is a given. Not every single item of legislation in every other state in Australia has exactly the same paragraph in it. It is a given and a patsy. The suggestion that in some way the legislation has been strengthened with this subordinating clause in it, I refute and I refuse to accept. It is just more guff from the members opposite to generate noise surrounding this issue, but taking away attention from their role in this matter, which was to try and take this stuff out as quickly as possible.

Just after lunch, the minister who has carriage of this legislation tried to jump up and finish the debate off as quickly as she could without any other member speaking.

Ms LAWRIE: Wrong! A point of order, Madam Speaker! The minister jumped at the end of Question Time to respond to a question so the member is misrepresenting the minister completely.

Ms SCRYMGOUR: Speaking to the point of order, Madam Speaker, I did jump because there was a question that was directed to me by the member for Port Darwin, and I had undertaken to provide that answer at the end of Question Time. I stood to give that answer, but the member for Greatorex, with all his greatness, stood up and did not want to have that answer put on record in responding to the member for Port Darwin. So stop standing up here with your misinformation, member for Macdonnell.

Madam SPEAKER: I can only assume that I misunderstood when you stood, thinking that you were standing to close debate, that is why I gave the call to the member for Greatorex. But you will be able to give that response later on in the debate.

Mr ELFERINK: Sensitive as they are, Madam Speaker.

Ms Scrymgour: No, it is not about being sensitive.

Mr ELFERINK: They cannot help themselves. They are jumping to their feet at the first available opportunity because they think they are beyond criticism.
Ms Lawrie: We prefer the truth, not your lies.

Mr ELFERINK: What a deceitful bunch!

Mr KIELY: A point of order, Madam Speaker!

Madam SPEAKER: Member for Macdonnell, withdraw that remark.

Mr ELFERINK: I withdraw, but Madam Speaker, I am unsure as to what remark I am withdrawing.

Madam SPEAKER: You know what remark you are withdrawing.

Mr ELFERINK: No, Madam Speaker, I do not and I seek instructions.

Madam SPEAKER: You are not to call them a deceitful bunch.

Mr ELFERINK: I seek clarification, Madam Speaker. ‘Deceit’ is a word that has been used regularly and without restraint in this parliament, and I seek clarification.

Madam SPEAKER: The clarification is that when the Speaker deems that a phrase used in a context, and the way that it is delivered, is unparliamentary, it is so. I am ruling it out of order.

Mr ELFERINK: In that case, I accept that, Madam Speaker. I withdraw it. What a misleading bunch of people they are.

Madam Speaker, the fact is that they have realised that there was a classic flaw in their approach to the election and they wanted to avoid the issue that had been left for them by Senator Carr.

The government says: ‘This stuff was all inherited from you lot’. The fact is that we have also heard from the minister that we have better, improved acts. We changed them to improve the way that we do this stuff. Under this improved legislation, a shipping container full of nuclear waste sits in the middle of Kakadu National Park unmolested. This is their improved model; it has nothing to do with us. These are the improvements that they made. The fact is the improvements have not gone anywhere near fixing the things that they suggest need fixing.

They say: ‘These acts do not operate. These are all issues of the Commonwealth’. The last time I checked, the Criminal Code operates in Kakadu National Park, as does the Summary Offences Act, the Motor Vehicles Act, the Traffic Act, and all other legislation in the Northern Territory. Just because the owner of particular land inside the jurisdiction of the Northern Territory happens to be the federal government, that does not stop the operation of Northern Territory legislation in those areas. I can even name the High Court decision that dealt with the use of the Traffic Act inside the RAAF Base Darwin. That case was R v Svikart, if memory serves me correctly, and held that the Northern Territory Traffic Act operates on Commonwealth land. The principle is consistent in other legislation. To say that Northern Territory legislation does not apply inside Kakadu National Park is unconvincing. Unless I can be
convinced otherwise, as far as I know, as long as Northern Territory legislation is not inconsistent with any federal legislation, the legislation under control of the minister and the rest of the government is active and workable.

Bearing this in mind, the Northern Territory government is already aware of that because, leached from the tailings dam of the Ranger uranium mine is something that has the Northern Territory government making very loud and public comments inside Kakadu National Park, on land which is under the control of the federal government. Therefore, the Northern Territory legislation does operate in those environments. Yet, the Treasurer in his role as Minister for Employment, Education and Training, with carriage of the appropriate legislation, seems to be blithely unaware of this.

Finally, we come to the legislation itself and the opt-out clause for the Commonwealth. This legislation is a three-ring circus and a political stunt. The clause makes no difference to how it operates in the Northern Territory. However, it is better to bring this three-ring circus into something closer to reality than what is being spewed forth by this government. This legislation was part of a political campaign. Rather than pulling it, the piece of garbage that it is, off the Notice Paper, this government is persisting with it because it feels obliged. They should not persist with it; it does not make any difference one way or the other. I will not be supporting it or opposing it because I do not care. It is meaningless tripe.

Mr WOOD (Nelson): Madam Speaker, if you look up the word ‘blasphemy’ in the dictionary, you will see that it means ‘irreverent behaviour towards anything held sacred’. This bill presented by the government to this parliament is surely, then, blasphemous. Why? Because this bill is nothing more than a piece of political trickery deliberately planned to be debated in parliamentary just before the election date.

Funnily enough, with sleight-of-hand, the bill was removed from being number one on the Notice Paper last Wednesday to not even being debated last week. I wonder why. This government shows that it is not interested in a reasoned debate on this important issue. What it wanted last week was a head-on fight with the Commonwealth government to try to enhance its chances of winning the seat of Solomon. We can see that that did not work. It is blasphemous because the government has used this bill to irreverently and cynically try to further its political goals instead of using this sacred House for a serious debate on an important issue …

Mr Kiely: This House is not sacred; it is not a church!

Mr WOOD: To some of you, it is not. Obviously, it is not sacred to you.

Mr Kiely: No, it is not sacred to me. No, it is not …

Madam SPEAKER: Member for Sanderson, order.

Mr WOOD: It is a place of respect, member for Sanderson.

Mr Kiely: No, it is not. Bringing your religious connotations in here.

Mr Baldwin: You will get your turn. Sit down.
Mr WOOD: Madam Speaker, the member for Sanderson might treat this place with disdain and disrespect, but it is a place …

Mr KIELY: A point of order, Madam Speaker, he is alleging actions and attributing convictions to me that are not true.

Mr WOOD: I said ‘might’, Madam Speaker.

Mr KIELY: You cannot say that sort of thing.

Mr WOOD: Why not?

Madam SPEAKER: Member for Nelson, will you withdraw that? Just withdraw it.

Mr WOOD: Okay, for the sake of peace and quiet, Madam Speaker, I will withdraw it.

Madam SPEAKER: Member for Sanderson, I suggest you stop your interruptions because they are provocative.

Mr WOOD: Madam Speaker, proof of what I am saying could no more be validated than in the final sentence of the minister’s second reading speech:

This bill sends a strong message to Canberra that if they want to override the Territory on this issue, they will do so against the express wishes of Territorians.

I find it very difficult to debate this issue knowing that this debate is a bit of a joke and was really part of a failed federal election campaign, but debate it I will.

The matter before us highlights how parochial politics can get in the road of sensible outcomes to all Australians. I am proud to be a Northern Territorian, but parochial politics can reinforce myths and legends deliberately designed to scare and mislead the electorate in the belief that this will keep them in power. Parochialism does not assist good policy making. It is like a one-eyed football supporter giving his or her opinions on an umpiring decision, and I have first-hand experience of that. Objectivity goes out the door. Win at all costs comes to the fore. What we should be doing is crawling out of our parochial cocoons and realising that we are Australian.

We have an issue that affects us all and we need to work together to find a solution. Here is an opportunity for our nation’s leaders to sit down together and work out a solution. Surely, that is what leaders should be doing: working for the benefit of our nation. Sadly, this is not the case and it can be seen by the government’s rhetoric and the rhetoric from the Labor state premiers, such as the Premier of South Australia who turned what should have been a bipartisan agreement into a parochial battlefield. Mr Howard, in the light of that and an on-coming election campaign, told the states to look after their own waste. Again, politics.

Madam Speaker, what are we talking about? We are not talking about a nuclear waste dump. That is just emotional language deliberately used by the minister in this debate.
to muddy the waters, confuse the public, and, of course, hide the truth. As Matt Coffey wrote in correspondence to me:

‘Nuclear’ refers to active enrichment or fission taking place in a reactor. When a product is removed from such a facility it is termed ‘radioactive’ as it is now in a waning process, gradually reducing irradiation. The correct term is ‘radiation storage facility’.

The minister used the words ‘dump’ or ‘dumping’ 17 times in her second reading speech to place a deliberate slant in the debate to scare people. The idea of a state-of-the-art radioactive repository or storage facility obviously would not help the government’s argument, so let’s call it a ‘dump’. That will win people’s hearts and minds over, especially way out in the bush where there is no one to hear what was said, or even put an opposing point of view. It is called politics. No leadership, just politics.

What are we talking about? We are talking about a site 4300 m³ of stockpiled radioactive waste which is presently housed at 50 to 100 locations throughout Australia. Much of that is stored at the Lucas Heights site in Sydney. The Lucas Heights facility generates nuclear power and is involved in nuclear medicine and nuclear research for industrial and mining uses. Materials needed for medical use such as radioisotopes used in X-rays are produced here. Spent fuel rods are stored at Lucas Heights, and some of these rods are sent to France for re-processing. There is also 2010 m³ of contaminated soil in South Australia. Radioactive waste also comes from hospitals and medical facilities, from mining industries, universities, and even in things like exit signs and domestic smoke detectors, which the minister just said he is going to install in all public housing. Goodness me! I wonder if those people know what they are in for.

The federal government was looking to find a single waste repository for all this waste. Believe it or not, 4300 m³ is two cricket pitches long by 10 m high, by 10 m wide, which is a pimple compared with the area of Australia. We are talking about a very small area in a very vast continent. We did select a site, but, because of politics, that did not happen. In other words, we did not have the maturity to act as a nation to find a solution.

When the Territory government says that we should only look after our own waste, it conveniently forgets that many Territorians go south for medical treatment, especially treatment involving nuclear technology. Should we take our own isotopes with us when we go south? The minister said that the government is happy to manage our radioactive substances, but we obtained them from the Lucas Heights facility, so do we wipe our hands of a facility simply because it does not fit our political agenda? We cannot see past our parochial noses to realise that it is not John Howard’s problem, it is not the Commonwealth’s problem, it is our problem because it belongs to us as Australians.

I might be so bold to ask: is there more to this than the eye can see? Is it because Labor does not want to see the new Lucas Heights reactor obtain a licence to operate, knowing that if the Commonwealth cannot find a place to store existing waste or future waste, then it will not get a licence? Is this the cotton issue repeated, where we cannot move on and look at technology today, not years and years ago, where
anything to do with the nuclear industry is so taboo to Labor that the whole issue is not negotiable, not to be discussed, and in the too politically hard basket? Just like cotton, the debate is run on public perception and we make sure that perception is fed, especially during an election campaign.

When I could not get a motion up to even look at cotton, not grow it, the L in the ALP standing for Luddites took over. When I heard the Chief Minister and the member for Wanguri give their off-the-cuff reasons for not supporting even a trip to investigate the cotton industry, I wondered whether I was standing in a prehistoric parliament with Fred and Wilma Flintsone at the helm. We are locked in, slaves to our political masters, slaves to our survival at the next election, but never free to open our minds, explore alternative ways, bite the bullet, or even try a bit of common sense.

This issue is about politics. It is as simple as that. To support this view, I would like to read an article by Lesley Kemeny in *The Australian* in August this year. Lesley is a nuclear scientist and engineer and is an Australian member of the International Nuclear Energy Academy. She said:

> Australia needs a well-regulated and centralised nuclear waste repository. So it is a great pity that after a 12-year search, the location proposed by physicists, engineers and geologists as being optimal - near Woomera in South Australia -- is not to be developed, at least for the present.

The Howard government has shown great wisdom and commitment in funding Australia's new research reactor at Lucas Heights in NSW. It is, at least, a token recognition that we live in the nuclear age and that great scientific, medical, industrial, agricultural and environmental benefits can flow to the nation from peaceful nuclear energy.

By contrast, the South Australian government's petulance and political gamesmanship in refusing the siting of a nuclear waste repository at Woomera is a silly not-in-my-backyard tactic beloved by coercive green activists. Such a decision ill behoves a state which financially benefits from its massive uranium production facility at Olympic Dam and which, one day, could reap further economic as well as environmental rewards through nuclear power and desalination technology. In fact, South Australia's ‘win’ at a politically sensitive moment is the Australian community's long-term strategic and financial loss.

The fact is any society that produces radio isotopes and uses radiation sources in its hospitals, universities, industries and agriculture must plan to have nuclear waste repositories and be able to transport the minuscule quantities of such waste to the site. International experts are agreed that in 50 years of global activity in these spheres, there has been no known death or injury in commercial
transportation. This should be compared with the far greater risk of transporting toxic, corrosive or flammable materials in special vehicles along Australia's roads.

That reminds me: how may triples full of fuel drive between City Valley and Bayview every day, and no one seems to worry?

Most of the material which would be transported in Australia to a nuclear waste repository is low-level waste. And all radiation doses from nuclear waste in transport and at repositories are designed to be below safe background dose levels and pose no risk.

For more than four decades, Australians have been assailed with false perceptions of danger or high risk emotively linked with such words as ‘radiation’ and ‘nuclear dump’. In the absence of sound education and informed realism, some will react to this with fear and anger. For some, the cerebral manipulation may even lead to a phobia.

Now, a phobia can be loosely defined as the reaction of the human psyche to an exaggerated or magnified sense of risk. Most Australians, after all, would be terrified of a chance encounter with a tiger, crocodile or snake in their suburban streets or gardens. If the same sense of fear persists when we visit the zoo and see the animals or reptiles in their enclosures, we may possess a phobic predisposition which could lead to a neurosis.

Radiation neurosis, needlessly associated with nuclear waste repositories, is promoted by Australia's seasoned anti-nuclear campaigners. And it is sometimes propagated by sections of a sensation-loving media. Because radiation is a physical entity which is unseen, unsmelled and untouchable, it is an ideal vehicle for inducing fear and sleepless nights into an Australian community which seems unable to come to grips with ‘relative risk’, a community which readily accepts death and injury on Australia's roads - a highly probable risk -- but will not even conceptually tolerate a highly improbable incident associated with a radio isotope.

The purveyors of radiation neurosis love pseudo-science. They frequently try to associate frightening phrases such as ‘damage to the gene pool of mankind’, ‘latent carcinogenesis’ or ‘the evil nuclear industry’ with minuscule levels of radiation, levels which are far less than the average background level
which we all absorb. Their argument is as foolish as the stupidity of suburban councils that erect signs declaring their municipality a ‘Nuclear Free Zone’. A ‘Smoke Free Zone’ certainly makes sense. But a ‘Nuclear Free Zone’ is an impossibility.

If Australia went down this path, some very strange new societal patterns would emerge. Aircraft travel would have to cease. Work in some city buildings would be considered too dangerous. Dietary habits would have to change. Possibly even some medical diagnostic and therapeutic techniques would vanish. And the price of Australian residences would rise and fall according to their background radiation levels.

The new millennium will see the increased use of nuclear science and technology in every field of human endeavour. The immense benefits far outweigh the risks. That’s why pseudo-science, radiation neurosis and political opportunism must not be allowed to scaremonger the Australian community.

That is what this debate is about or what it should be about. It is interesting to read Leslie Kemeny on the relative risk. This government can talk about its perceived problems with radioactive waste, but what was ‘relative risk’ when it gave approval for the building of the biggest LNG plant within a few kilometres of the CBD? I bet the actual risk from an LNG plant, although relatively low, is nowhere near the relative risk of a radioactive storage facility built kilometres from anywhere.

The government does not seem to have a concern about leaving 15 radioactive gauges at Mt Todd. Has the government ever thought what would be the consequences of a mine opening up again or what would happen to the Gouldian Finch that breeds in the area? Should not these gauges have been stored at a hot mine where there is already radioactivity rather than left at a cold mine which could be developed again in the future?

I challenge the minister’s statement in her second reading that 90% of waste is stored at Lucas Heights. Using figures from the 2002 National Radioactive Waste Repository Draft EIS Main Report, there are 2010 m³ of the then – this is 2002 – 3700 m³ of low level and intermediate waste in Australia, and that 2002 m³ comes from contaminated soils in South Australia. So the statement that 90% of radioactive waste comes from Lucas Heights is wrong. It is more like 35% to 40%. It is nowhere as high as the minister has stated, as those figures demonstrate.

Radioactive waste and nuclear science is like cotton: a political taboo. No amount of logic, no amount of expert opinion is going to sway our government away from its implacable view of the world. It just goes to show that whilst we cheer on our Australian Olympians in Athens we, I hope, support our Australian soldiers in Iraq, we barrack for our Australian Wallabies against the All Blacks, but when it comes to dealing with an Australian issue in Australia, we all hide behind our parochial cupboards or stick our parochial heads in the sand and say: ‘No, thanks, not in my backyard’.
As Matt Coffey writes in today’s *NT News:*

… we are now guaranteed eight state and territory sites plus the national and Lucas Heights, which makes 10 sites and eight different legislation and management regimes ... *Is this wise, stupid or just laughable? You be the judge, because we now have 10 backyards for you to be NIMBY about.*

I am interested in other people’s comments of Matt Coffey, who asked why not Montebello Island. Would not the government support this? It was a site for nuclear tests many years ago and is perhaps a good option.

Mr Acting Deputy Speaker, next time I hear the song *I am Australian* and the words ‘I am, you are, we are Australian’, I will say to those people: ‘Get real. Get a life’, because these words are nothing more than mere sentimental platitudes. This debate, or should I say farce, over such an important national issue could no more exemplify that very point. The score at full-time today will be: politics one, Australia nil.

**Mr BONSON (Millner):** Mr Acting Deputy Speaker, some of the contributions we have heard today have been amazing. It is as if they want to rewrite history. The reality is that this issue arose because an individual representing all Territorians said that it was our obligation - our obligation - to take nuclear waste from other states and territories.

I am sorry, but the contribution from the member Nelson was one of the most self-centred, blow-wind-up-my-bottom contributions ...

**Mr WOOD:** A point of order, Mr Acting Deputy Speaker! If I can be censored by the member for Sanderson for saying some very mild things, I am sure you could ask the member for Millner to withdraw his comments.

**Mr ACTING DEPUTY SPEAKER:** Withdraw, member for Millner.

**Mr BONSON:** I withdraw my comments. It was a stand-on-my-soap box lecture. If someone had a good look at how the polling went in the member’s area, no doubt there is political pitch.

I would be very interested to know where this information and his speech was going because the there is a principle here. It is a very basic principle: we in the Northern Territory do not want nuclear waste from other states and territories in the Territory. That is it – bottom line. That is the principle.

We can listen to political speeches all we want from people on the opposite side, but the reality is we did not start this debate. This debate arose from an individual who made a statement. I am sorry. I am a Territorian. I was born and bred here and lived here all my life. My family has been here for generations, and I do not want a nuclear dump in the Northern Territory - bottom line! That is the bottom line, guys! The reality is if we have to look after our nuclear waste, we take that responsibility. However, to the blow-ins, I am sorry to say that we do not want nuclear waste here …
Members interjecting.

Mr ACTING DEPUTY SPEAKER: Member for Millner, cease for a moment. There has to be some decorum in this House. Other speakers have been heard in relative silence, and I suggest that the same standards apply to the member for Millner.

Mr BONSON: Thank you, Mr Acting Deputy Speaker. As a result of comments, it suddenly became an issue not only within the Northern Territory, but across the whole of Australia. What I fear is if the Northern Territory government did not take this up and make it a national issue, then we, as a Territory with only two seats in the House of Representatives, would have had to take on other states’ and territories’ nuclear waste.

This legislation is designed to flag to the Commonwealth government that we do not want nuclear waste from other places in Australia. As the member for Macdonnell pointed out, the Commonwealth of Australia has a constitutional right to make changes to Territory legislation, and they have done in the past. By presenting this bill, we are flagging that they, the Commonwealth, will have to legislate to overturn our legislation. This, in itself, has caused a political debate right across Australia.

We cannot rewrite history. The Northern Territory government did not come out and say: ‘We are against nuclear waste’. There was a reason; something generated this. What we have seen from both sides of parliament in the Northern Territory is a recognition that we do not want to be the identified site for nuclear waste and of all these issues that have been raised over the last weeks and months, that has to be a good point.

The member for Macdonnell said the bill is meaningless tripe. I do not think, member for Macdonnell, the bottom line that we do not want nuclear waste is meaningless tripe. I am of the view that individual states and territories should be responsible for their own nuclear waste. Therefore, we put the responsibility on them to minimise that waste and to look after their own waste.

We heard from the member for Greatorex that this is a political stunt. Member for Greatorex, all I can say to people who may not have a long-term interest in the Territory, but I certainly do, is whether it is in the northern suburbs of Darwin or out on remote areas of Arnhem Land or the Central Desert, Alice Springs, Katherine, there is not one individual Territorian who has walked up to me and said: ‘Yes, we want a nuclear dump. It is our obligation and it is going to create jobs’. Far from it.

This bill will deliver legislation very similar to that of Western Australia and South Australia. That is, we will look after own waste. We have less than 1% of the nation’s radioactive waste and it is of a low level. The Commonwealth government is looking for a site for 90% of the nation’s waste including all the nation’s highest grade waste. The threat of the NT being used in it is very real: low population and a low number of federal seats, as I have already mentioned.

I am not meeting people in my electorate or in wider Darwin on the doors or at the markets who want a nuclear dump in the Northern Territory. I believe that this bill is
very much a case of this parliament representing the views of Territorians. I would argue that the majority of Territorians would support this bill. The opposition may not know, but, as I have already stated, the Australian Constitution allows the federal government to overrule our legislation. This will be a flag to them and will create a political debate across the nation about the Commonwealth government interfering in state and territory rights, as we have seen in the past.

Mr Dunham: Like the Aboriginal Land Rights (Northern Territory) Act.

Mr BONSON: The member for Drysdale knows that we have seen it in the past and he knows the hoo-ha that it has caused. Now maybe they will come down with a cold hand from Canberra and they will put it on to the Northern Territory and they will make us take this nuclear dump. We cannot do anything about it. That is the reality. All we can try to do is flag to them that Territorians do not want a nuclear waste dump. I ask members opposite to question their constituents over this issue. They would have to represent the reflection that people do not want a nuclear dump.

As the debate developed, we saw in the last few weeks of the Commonwealth election, we did see some policy on the run from the Howard government. It is important to remind everyone that as part this, at no stage did the Prime Minister himself rule out the Northern Territory. The best he could do is not rule us out and not rule us in. The best we got was from the Minister for the Environment who ruled out the mainland of the Territory, but not our islands. I certainly hope he was not thinking of the Tiwi Islands or Groote Eylandt or any other place off the shores of the Northern Territory. People on our islands do not want it, just as people in the desert and Katherine do not want it. I am sure that fishermen do not want a nuclear dump on our islands near all the fantastic fishing locations that we have. I certainly do not want nuclear waste transported through our waters and offloaded onto one of our islands.

I believe that this bill will help to tell everyone in Canberra that the Territory will fight tooth and nail against such a proposal. In the heat of an election battle, the Labor Party did stand up and fight this. Rest assured that we will continue to stand up against any plans by anyone to place their nuclear waste in our Territory. This legislation is the strongest statement that the Northern Territory parliament can make on behalf of the NT people. It is very simple legislation; it bans the storage and transport of other people’s nuclear waste in the NT.

I do not understand the CLP’s position - only they do - but I cannot support it. The vitriol from the member for Nelson was one of the most political contributions I have heard him make in this House.

Mr Dunham: He is a politician; of course he makes political contributions.

Dr Burns: He doesn’t think he is.

Mr BONSON: Exactly! I pick up the interjections of the members for Drysdale and Johnston. He purports not to take political views and then makes political statements. They called it a political stunt before they even saw the legislation. They have called it a farce and they have called it Mickey Mouse. South Australia has it and Western Australia has it. Why does the CLP believe that the Territory should not do the same
thing?

I understand their laziness in relation to remote areas and islands. They have never cared about these areas before, so why should they care about them now? I am amazed, though, that they have not stood up for Katherine. We have not heard a statement from them about the issue of Katherine and whether it is a good place to have a nuclear dump.

Nuclear waste is bad for business on a number of levels. Sure, there might be a couple of jobs involved in managing it, but hundreds of jobs would be at risk in the tourism industry if the Territory was known as the nuclear dump of the nation. Our pristine environment is what brings people here; it is our biggest asset. A nuclear dump would destroy this.

I listened to contributions of members, and I have not heard an opposition or Independent member say that they want a nuclear dump here. What I have not heard is those members argue that they did not have a representative who said that. It is on record that it was said.

In summary, I support this bill because the last thing that I want is to collect other people’s nuclear waste and for the NT to be a dumping ground for Australia. I cannot see any Territorian supporting such a concept. I have every intention of strongly supporting legislation that stands up for the Northern Territory.

Ms CARTER (Port Darwin): Mr Acting Deputy Speaker, I rise as the new Environment and Heritage shadow spokesperson, and I am delighted to be able to participate in the CLP opposition team to this extent. The environment is an incredibly important area and portfolio.

I have spoken to the minister already today, and we have discussed briefings and so on. I thank her for her support with that, and I know we will work constructively in the future.

In respect of this bill, I have to bring to the attention of the House the fact that last week I moved a motion that the government send to the Environment and Sustainable Development Committee a number of issues relating to waste products in the Territory, one of which is radioactive waste.

What we wanted to know through a reference to the environment committee was how much radioactive waste we have in the Territory, future expectations in relation to waste products, current storage of nuclear waste products, and what we will do now that the federal government has ruled out the fact that it will establish a national repository for low and medium level radioactive waste products.

In the Territory, we are going to have to organise our own storage place or places. We have heard, on and off, that we have the odd dump in the NT, but this *ad hoc* way of dealing with it is not good enough and we need to look to the future, given that we are not going to be able to utilise a national storage facility.

Despite the minister’s assurances in the debate last week, we did finally have
confirmation via the *Northern Territory News* on the weekend that there is a radioactive waste dump of mining refuse being stored in at least one shipping container in Kakadu, and we pursued that matter during Question Time today.

The legislation before us, to my mind, is a sad effort. It was given just before Saturday’s federal election, in which, of course, we are all well aware the Martin Labor government ran a marketing campaign trying to frighten Territorians into believing that unless we elected a federal Labor government, there was nothing going to happen except that a John Howard-led Liberal government was going to create a national nuclear dump in the Northern Territory.

Despite what the Prime Minister and others said, whatever assurances could be given that this was not going to happen, the Martin Labor government, headed by Clare Martin and her advertising, went on and on in the media about it. It was obvious that this deliberately deceitful message was not creating the community stir in the urban areas that she was hoping for. That was reflected on polling day for me when only one constituent asked me about this matter, which was surprising, given the amount of money that had been spent on this campaign.

It is my view that the Labor Party in the Northern Territory did some polling and they found out that this issue was not biting, and that they were going to have to stumble around and find something else to pursue. However, that message was obviously coming through to them a bit late because we know that in the middle of last week, this bill was slated as being number one on the Notice Paper for Thursday’s debate, and then by the time we came into the Chamber on Thursday morning, it had dropped down to item five, and we all know that under the current government, it is incredibly rare for this government to be able to sit long enough during a sittings day to be able to get to item five on the Notice Paper.

Quite obviously, this bill had been deliberately dropped on the Notice Paper in an effort to get rid of it so that it did not cause any sort of messages in the media prior to polling day on Saturday. This really highlights to all of us, and should highlight to all Territorians, the fact that this bill is nothing more than a political stunt. It was one of the parts of a campaign designed deliberately to frighten Territorians into believing that something that was not going to happen was going to happen and, quite frankly, the government should be ashamed of themselves.

I have been advised, for example, that in some Aboriginal communities, people from the Labor Party or their colleagues were speaking to people along the lines of: ‘Did you know that the Liberal government, if elected, is going to put a nuclear waste dump here in your area?’ That was a shameful thing to do. You know it was not true, and yet people were being deliberately misled along those lines. It is an appalling trick to pull on people.

In conclusion, it is quite obvious that this bill is nothing more than a farce.

**Mr DUNHAM (Drysdale):** Mr Acting Deputy Speaker, it is good to speak late in a debate and hear some of the contributions, such as that of my colleague, the member for Nelson, whom I believe made a very level-headed contribution.
It is very difficult in Australia to talk about anything to do with nuclear activities. The Australian public seems to have a binary attitude to it; it is good or it is bad. It is very difficult to discuss degrees within that, and it is very difficult to discuss the science and unemotional issues attached to it because the debate quickly turns into an emotional one. I have said in this House before that I have been to some nuclear power plants and reprocessing facilities. I have seen it transported, I have seen it processed, and I have seen it turned into energy rods. I have seen where it is stored and I have seen how it is stored in water when it is hot.

When we went to some of those facilities, I was interested to find that the emissions outside some of the facilities must be zero. This Parliament House would not pass that test because the granite you walk on out there, the Mt Bundy granite, is hot. It emits radioactive particles. If you ran a Geiger counter over it, it would give you a beep. It is a naturally occurring material in the Northern Territory from which we make a lot of money.

The government is quite happy to talk about how good mining is, how much money comes from mining, and the prospectivity of the place. One of those commodities is uranium. Uranium is used for many purposes, the greatest preponderance of which is peaceful and related to the generation of power. If we are unable to get to the stage where we can talk about this in a logical way, we are back to the three-mine policy idiocy and lunacy about: ‘You can mine it in South Australia; that is good uranium. That is bad uranium there at Koongarra. We have our waste but that is someone else’s waste’. As my colleague from Nelson also said, there are Territorians who have been the beneficiaries of nuclear facilities in hospitals in other places.

I would have thought it is good to have a national approach to this. Indeed, people who are new to the debate might wish to look at some of these documents. They go back to 1992, and a federal Labor government. They are excellent documents: A Radioactive Waste Repository for Australia: Methods for Choosing the Right Site. A significant amount of activity was put into choosing a site.

My friend from Millner said: ‘We only have two federal politicians, so they will pick here’. There are the sites; they have picked them. They have identified them. They are there. You can see why South Australia was jumpy because there are several in South Australia. There are two here: Tanami and Bloods Range, both in fairly remote areas. Then they said: ‘Having picked those sites, let us look at their suitability’. There was a fair bit of work done. There was consultation with a variety of players including the Central Land Council, which made a submission. They looked at both of those sites and found them to be largely unsuitable. The sites that were under consideration by various federal governments, including the Labor ones, included Tanami. The Tanami region is considered to be unsuitable to host a national radioactive waste depository. Bloods Range, as stated for Tanami.

We can run an emotional argument that it is going to ruin tourism because it is going to be jammed into some place and dissuade tourists from going there. If you go to places where there are some radioactive emissions such as, for instance, the mine at Jabiru, you will see tourists are very keen to have a look. They do not have a massive problem with it. While I will not be so foolish as to say that there would be a tourist product out of going to have a look at a nuclear waste repository, these things do
exist.

I talked about the power station in Normandy in northern France. They have devices in the shopping centre that show you all the independent monitoring on the water, the air, and various other things. I was pretty interested to see that there was a great fishing site near this power station because the power station produces steam, which is returned to the water and recirculated, and it is clean. It goes in as clean steam. Into that cold water goes hot water and, thus, creates a new fishing zone and people quite willingly use it. They do not have any great scare about having two heads or waking up in the night glowing or anything like that.

There has to be some capacity for us to debate these things. A pretty good effort was put in by a previous Labor government and the current Coalition government in having an approach where they talked to the people, called for submissions, looked at the geology and the accessibility of sites, contaminants to ground water, etcetera. Those reports make pretty good reading.

The reality is we produce nuclear waste. That is the reality. In the same way one of Labor’s more foolish policies of the good uranium in South Australia and the bad uranium in the Northern Territory, we now have the government saying we have a dump being considered for the Northern Territory, but ‘Any of the stuff that we store is low level, it is okay. Trust us on this’.

The Chief Minister was unconvincing this morning when she was asked why certain documents were sought at the start of this debate. I remember it well because it is quite unusual for a rejoinder immediately that a bill is introduced. Normally, it is adjourned for a month. The rejoinder came from my colleague, member for Brennan, who said if we are going to do this in a way that is transparently not a stunt, why don’t we get the data? So tell us where it is stored and how it is handled and all the rest of it, and we can have a thinking debate.

It is obvious that it was never ever the intention to have a level-headed, thinking debate. The only purpose of it was so you could paint up a corflute sign to hang out the front of an election booth. That is its entire purpose.

The trite contribution from the member of Millner about we are really a child of the Commonwealth but we will stand up to a man and tell them how to do things is the sort of stupid jingoism and parochialism alluded to by the member for Nelson. It is unhelpful for the debate. It is an unthinking contribution on the basis that we do not need to worry about anyone else’s problems in Australia because we are really not Australians, we are Territorians.

There is the capacity to have a better approach to this. Obviously, the current federal government is going to be reluctant to do that because it will be used in a negative way against them. That is the problem for the Chief Minister. Having decided that if you store nuclear waste, it is a dump, she now has to discuss with us her ‘dumps’. One of them is Royal Darwin Hospital. It is all very well to say to the people: ‘You don’t need to worry about that because it will have no injurious effect on your health’, but maybe that is not such a good site.
I would also like to know whether it has been audited. Has all the stuff that has gone in there remained in there? Has any been transported elsewhere and is it still secure? I would not be confident that the informal storage arrangements currently in place are periodically audited. I would not be confident to be able to say this material that went in there is still there and there have been stocktakes and various techniques to make sure it is still there. I would not be surprised if, by mistake, it ends up in land fill. It would not shock me because that sort of thing can happen if you have informal arrangements such as we have at the moment.

We can progress with this bill. We can put it on the statute books, but what the government has to tell us is whether this law will have any effect. We have been told that apparently Territory laws do not apply in an enclave in Kakadu National Park. It is the most specious argument I have heard in my life to say that you cannot have any capacity for Territory law to apply in Kakadu National Park when it comes to radiation facilities, but every other statute applies. That is just implausible. It just cannot be sustained as an argument.

This legislation, too, would seem to be a dust gatherer with no purpose. I would like to see a thinking contribution as a rejoinder from the minister that addresses where the sites are, the capacity for them to be audited, for stocktakes to take place, discussions about the security thereof, whether those sites, particularly the one in Kakadu where she took a couple of approaches at answering it, but it would seem from her first answer that she is not satisfied that it is an appropriate way to store waste in containers out at Kakadu.

We can probably dispense with this pretty quickly, but I suspect that there will be significant amounts of finger pointing and people will recall this for some future time, that our federal member was happy to sell out the Territory and let everybody dump their waste here willy-nilly. A debate of that type, quite properly, should rebound on the government, and it should rebound on the way that people say: ‘Okay, given that you produce nuclear waste yourself and you store it in a dump yourself, please tell us how that occurs’.

It is a matter for this government to hang its head in shame how this was used as a fairly crude and stupid, blunt political instrument. The fact that they lost the election might have something to do with this. Many people had a more thinking approach to it than the government expected and they were able to, for instance, hear the words from Ian Campbell, the federal minister for the environment, who said the Northern Territory could take that as an absolute, categorical assurance that there would not be a nuclear waste repository here in the Territory.

We know it was never a site, apart from the two selected, analysed and found to be wanting. We know the federal minister discounted it, yet it still ran as an issue. In fact, it ran as an issue on the TV as an ad long after it was refuted. It was a pretty sneaky campaign trick. It back-fired on you. If your logic held true, that if you voted for Dave Tollner you would get a nuclear waste repository, it is a fairly simple matter now of waiting and if such a repository does not occur, an apology is due because that is what people were told as they went to vote: ‘Don’t vote for this man or you will end up with a nuclear waste dump’.

I, too, have heard the story about Aboriginal people being told that it could well
happen in their community. They are just dangerous, foolish lies that often occur during campaigns. For the Labor Party to have been so close to this campaign does not auger well for them. We expect something of its ilk to jump out at our Territory election, and I hope they use this as a salutary lesson to be aware of the intelligence of voters because they are not as stupid as many in the Labor Party tend to think they are.

Dr TOYNE (Justice and Attorney-General): Mr Acting Deputy Speaker, I have listened with interest to this fairly prolonged debate. It would be very easy to pass the debate off as a picking over of what was said or thought in the federal election and to dismiss today’s bill as being one of no substance and, therefore, dismiss what it was intended to address.

There is a serious issue before us today, one that members generally need to think about seriously in respect of the various parts of the Northern Territory we represent. I do not think there is any doubt that if you went around and canvassed the opinions of NT people about the location of a nuclear waste dump, no matter where it was proposed in the Territory, there is ample evidence that there is strong resistance to the proposition.

We have heard some erudite contributions giving all sorts of reasons why we should look at this in the cold, hard light of day and maybe we should look at informed debate. The first people who have to be informed if there was to be any attempt to put a facility of this type in the Northern Territory are Territorians.

It is all very well to talk about extensive consultation that supposedly happened when the consultancy went through the Territory and other parts of Australia to evaluate potential sites for such a facility, but I can tell you absolutely that you can drive through all the communities along the Tanami Road, one of the proposed sites, and not one soul would be able to tell you of any consultation that they had. There is no knowledge of this out there.

When you look at the reaction of people in that area to the cyanide spill some year or two ago, people are still seeking closure on that. It was one of those things for which the follow-up was not adequate, and that has been admitted in reports, but what we are left with is a feeling of loss and betrayal out in the Tanami area.

These are the people who were being considered as neighbours to a facility harbouring nuclear waste. I do not believe in this House at this moment, with that kind of lack of consultation in the electorate, that we have any right to countenance a nuclear waste facility in the Territory.

Regardless of whatever assurances came out of the federal election in the heat of battle where, clearly, the conservative party needed to offer a rapid reassurance to the Northern Territory voting population that such a facility was not going to appear here after the election, things are said in elections. Some things are held to, some things are not. Our duty in this House, all 25 of us, is to make it absolutely clear at this point of time, with the current attitudes of the Northern Territory population, as to what Territorians think about such a proposal.
There are many ways we could do that, and this House, on many occasions, has sought to send a strong message to the Canberra parliament. I remember the Remonstrance with which Shane Stone trotted in; a highly theatrical document written in old Gothic English script, and we all said: ‘Yes, we are going to sign this’, because it basically said that if you want to do something in the Northern Territory, if you want to do something that impacts on the lives and the interests of Territorians, you had better come and talk to us about it and you had better start showing some respect for the interests of Territorians and to the primacy of the Territory as a part of Australia.

It is all very well to talk about us all being Australians and we all have to toe the line, as the member for Nelson seems to think, that we are not allowed to sing a semi-national anthem unless we give in to these types of national imperatives. It is all very well for some national initiatives to be aimed at this area of Australia, the Territory, but the key thing is if you are going to do that, if the Commonwealth government wants to look at the Territory for this, or any other initiative, they have to come and talk, with respect, to the Territory population and to its parliament.

That is the issue for us today, and if it had not been for the heat of a federal election, I daresay we would have had a fairly high level of consensus in this House about this particular action. This is an action of sending a message. We know that the bill before us can be overruled by the federal parliament. That is the whole basis of much of the statehood debate that we have had in the Territory over many years. We know that our laws can be overruled by Commonwealth laws. The Commonwealth parliament could very well pass legislation to establish a nuclear waste dump in the Northern Territory, and we could not do anything about that. However, what that would embody would be a very powerful statement against the interests of this part of Australia, against the interests of Territorians, clearly running roughshod over what our parliament has said is the express wish of the Territory electorate.

If they want to get over that, we want to make it as hard as possible for them to do it, by decree, if you like. If they want to have a reasoned debate and come here and talk to Territorians, no matter where they are, about the possibility of hosting such a facility, if Territorians are persuaded by their arguments to offer that hosting arrangement, good luck to them. That is the democratic process and it is a process that has been applied with respect. Given the way this has transpired to date, I believe we are bound, as representatives of Territorians, to send this message to Canberra.

If you are going to have a bill going to Canberra, you want one that is as hard as possible to overturn. That is why we sought the advice of our Solicitor General, Tom Pauling QC, in the wording of the bill and the proposed amendment that was foreshadowed by the opposition. I will read the Solicitor General’s advice in full. It has been referred to in the debate. It is fairly apparent that some of the opposition members have not received a copy from the Leader of the Opposition, so let us put it on the public record. This is advice SGO/2004/625:

*Nuclear Waste Transport, Storage and Disposal (Prohibition) Bill 2004:*

*This office has advised over many years on the peculiar difficulties that arise constitutionally where Territory laws conflict with Commonwealth laws.*
Many statutes have just terms provisions to avoid invalidity. The purpose of subclause (1) of clause (5) was:
(a) to reflect the constitutional position relating to inconsistency between Commonwealth and Territory laws; and
(b) to preserve as much of the law as could operate concurrently were there to be inconsistency in some particular way perhaps, in respect of the ANSTO waste.

If subclause (1) is removed …

This is the proposed amendment and the subclause referred to is:
A provision of this act relating to the transport, storage or disposal of nuclear waste does not have any effect to the extent that it is inconsistent with a law of the Commonwealth but the provision must not be taken to be inconsistent with that law if it can be complied with without contravention of that law.

That is basically stating the bleeding obvious, that the Commonwealth laws do override Territory laws to the degree that the two are inconsistent. The Solicitor General goes on to say:
If subclause (1) is removed as proposed and there is partial inconsistency, the legal result could be that the whole of the law could be struck down as beyond power, not to mention the effect of section 7(a)(3) of the ANSTO Act. The passing of the amendment would make the bill more vulnerable to being struck down, rather than read down, on constitutional grounds.

All the Solicitor General is offering to us in this debate is that if we want to make it as hard as possible for the Commonwealth that we have to force them to introduce overriding legislation, then leaving the bill the way it was drafted is the best way to do it. Amending it to remove the reference to the Commonwealth legislation and potential inconsistency is simply making it easier for the Commonwealth to strike the entire bill out as being against the Constitution. It does make any sense to do that.

It really brings us back to a very simple proposition for members to consider today when then decide whether they want to support this bill: given what Territorians think about this issue right now, that there has not been a comprehensive attempt by the Commonwealth to change the public opinion or even to inform people of the aspects of this issue, do we want to send a simple and unqualified message to the Commonwealth government? That message is that Territorians do not agree with this proposal at this time. That is a pretty simple thing to ponder.

I challenge any member of this House to provide any evidence that the electorate they represent shows any support for this proposition. You can go on and on and trust the Commonwealth government; they gave all these assurances during the election. I do not think this is an invalid thing to be doing now. I do not believe that this debate has
ceased nationally. It is very important to tell the Commonwealth that they have a lot of work to do if they want to progress a proposal of this type in the Northern Territory. That is what we need to do as part of our duty of representation to the Territorians who put us here.

Ms SCRYMGOUR (Environment and Heritage): Mr Acting Deputy Speaker, I will wrap up what has been an interesting debate on this legislation.

This is very simple legislation, which seeks to prevent other people’s nuclear waste being transported and dumped in the Territory. I simply do not understand why the opposition cannot say: ‘We support it’. It is not about how we are managing. At Question Time, I said that last week we had quite a long debate on a motion moved by the member for Port Darwin. Much of the response to that motion went into how we, as a Territory, as a government, manage and look after our own waste.

This legislation is about not wanting to become a dumping ground for other people’s waste. Do I repeat it again so that people understand that this is about waste coming into the Northern Territory?

Western Australia and South Australia have passed very similar legislation. When the Commonwealth government was attempting to place such a facility in South Australia, the South Australian parliament passed very similar legislation, but their legislation had bipartisan support and it was a very powerful message to Canberra that the people of South Australia would not take it lying down. Already with our legislation, we have shown Canberra that we will not be a pushover, that the message is very clear. We, as a government, are not going to accept that the Northern Territory is going to be a dumping ground.

This bill is not passed yet, but we heard about its ramifications. A member of the opposition said before that it was introduced on urgency. That is not true. This legislation was introduced some time ago. They have had ample time and opportunity in which to look at this and to support it. We have asked them a couple of times to support it and they still do not want to support it.

Just by introducing this bill, we have demonstrated to the Territory that we are not going to lie down and accept that the Commonwealth or anyone else is going to use the Northern Territory as a dumping ground. We do not have the population and we do not have many federal seats in parliament, but we have made a statement that has been very clearly heard. I pick up on the opposition who said that the message was very clear during the election both in Darwin and Palmerston.

Let me tell you where this dump was going to be. Let us look outside of Darwin and Palmerston. Let us look at the electorate of Lingiari. Are they not Territorians out there? Do they not have a right to be consulted and talked to and told that if the Commonwealth is proposing this, there are places in Lingiari at which the Commonwealth could look? For members opposite to say that, in terms of Darwin and Palmerston, people categorically rejected any statement from the Commonwealth about a nuclear dump, they need to look beyond the Berrimah line. We have members from Central Australia who come in here and talk constantly about the Berrimah line and ask: what about us in Central Australia? Let us look beyond the Berrimah line.
Who lives beyond the Berrimah line? We have many Aboriginal people in Aboriginal communities.

Islands were also mentioned. They were not ruled out, but were talked about. Then again, the islands are questionable, because we saw what happened when the Minasa Bone came in to Melville Island and the Commonwealth government, in a knee-jerk reaction to address the issue of refugees coming into this country excised the islands from the mainland of Australia.

It is important to understand that the position of the Commonwealth government does have to be carefully monitored. We are the first to admit that this bill has limitations. The Commonwealth government can completely overrule it should they wish. However, on this side, we have said that it is the most forceful statement this Assembly can make. This legislation makes it harder for the Commonwealth to put a dump here. Why would we make it easier for them? The opposition has tried to detract from our no nuclear dump position by scaremongering on waste. We heard more of that today in Question Time.

Last week, as I said in Question Time, there was a very detailed explanation of how we deal with radioactive waste. Let me state again, as I said to the member for Port Darwin, there are two sites in the Territory for which the Northern Territory government has jurisdiction where radioactive waste is stored. At the hospital, there are 2 m³ which are kept in a facility that, by the way, their own Senator, Senator Nigel Scullion, called ‘state-of-the-art’. Also, at Mt Todd, the Department of Business, Industry and Resource Development owns 15 industrial gauges containing enclosed radioactive waste.

I said in Question Time, the member for Brennan in particular has been casting all sorts of theories on how hazardous waste is managed. It is funny, as I said in Question Time, how his position has changed now that he is in opposition. What has changed? With the support of the opposition, we are strengthening the Radiation Safety Control Act and updating it into the new Radiation Protection Act. What else has changed? Why is it suddenly something that was good when you were in government and now bad from opposition?

Let me come to the shipping containers in Kakadu. Kakadu, as we know, is managed by the Commonwealth and the tailings come from the Ranger uranium mine, which is supervised by the Commonwealth. Let us be clear: the member for Solomon was complaining about the actions of his own government.

The waste at Gunlom, which was an issue raised, is not the Territory’s responsibility. It is Commonwealth waste on Commonwealth land. If we look at Kakadu National Park and the Commonwealth Environment and Biodiversity Act, Ranger uranium mine is monitored under the Mining Management Act. Waste has gone out of that mine into a site at Gunlom. Monitoring this waste is the responsibility of the Office of the Supervising Scientist.

In the year 2000, agreement was reached to take the tailings away from Ranger and put them into these storage containers because there was a fear of having waste in the tailing dams during the Wet Season leading to leaching into rivers and creeks. That
was in 2000. When the Commonwealth made this decision about this waste, the CLP
in government either failed in their duty to come to an agreement with the
Commonwealth to have this waste taken out of the Northern Territory or they agreed
to it. They agreed to this in 2000.

Regarding the waste at Gunlom, I said that I am concerned and I will be raising it not
just as the member for Arafura, but once federal Cabinet is sorted out and the
environment minister named, I will be taking the issue up with your federal
colleagues.

With respect to the yellowcake from Ranger, the Northern Territory government
regulates such waste through WorkSafe and under the \textit{Radioactive Ores and
Concentrates (Packing and Transport) Act} and the product is tested for radiation
levels and is known to be within allowable limits. Packaging and transport is in
accordance with the Code of Practice for the Transport of Radioactive Substances.
Members opposite are trying to create an issue when there isn’t one. We manage our
own waste. We store it appropriately and transport it appropriately. Again, I re-affirm
that we do not want to become a dumping ground for other people’s waste.

The member for Brennan concluded that because the Commonwealth is storing some
tailings in a shipping container in its parks in Kakadu, the facility at the hospital must
be dangerous. I refer him to Senator Nigel Scullion’s ‘state-of-the-art’ quote.

There would be nothing easier than for me, as Minister for the Environment and
Heritage and the member for Arafura, to go into fits of outrage over the
Commonwealth’s action. Unlike the CLP, I do not want to scaremonger and turn
people away from Kakadu, but, yes, I give a commitment on record that I will take
this issue up with the Commonwealth and we will deal with it, but I am not going to
scaremonger.

We have heard the opposition try to suggest that decades ago, Bob Collins and Bob
Hawke wanted a dump here. They have this bizarre logic that this means it is okay for
the Commonwealth government to place it here. It does not. This legislation clearly
says that we do not want anyone else’s nuclear waste, no matter who proposes it. This
legislation makes that clear.

Mr Acting Deputy Speaker, from the day we announced that we were considering this
legislation, the opposition has opposed it. Before they even saw the bill, the Leader of
the Opposition called it a stunt. Since then, he has backed this up by calling it
‘Mickey Mouse’. The member for Brennan has been particularly opposed to it. He has
called it a farce. The member for Brennan has also opposed this legislation because he
claims a junior minister has carriage of it. What is his problem with the minister for
environment, which I am, having carriage of legislation to protect our environment?
We know that when you were in government, you treated the environment portfolio as
a junior portfolio, as an annoyance that was in the way. We are protecting our
environment seriously.

Last week, we saw the Leader of the Opposition flag that he wanted to strengthen the
legislation. We were interested in what he had to say. If he had an idea on how to
strengthen the legislation, then we were keen to hear it, although he had not sought a
briefing. If he had an amendment that meant he would change his mind and support the legislation, we wanted to hear it. We need all members of this House to support this bill. However, it was not until late on Thursday that he tabled his proposed amendment to remove clause 5(1). Straight away, we knew that this amendment was likely to render the whole bill invalid. However, we sent it to the Solicitor General for his advice, and we now have that advice. Despite some of the voices over on the opposition bench saying that they did not see this advice, it was forwarded to the Leader of the Opposition.

I can advise that our legal advice, as the Attorney-General said before, is that the proposed amendment would completely sabotage the legislation. The advice that we have, as the Attorney-General said, is that the whole of the bill would be struck down. Either this sabotage was due to incompetence or was quite deliberate. Which one is it? The member for Brennan asked: ‘Why do you need this clause when it is not in other legislation?’ It is, and he knows that it is in other legislation. Yet he stood up here and said that this clause is not in other legislation.

Mr Burke interjecting.

Ms SCRYMGOUR: The same provision can be found in the Territory Parks and Wildlife Conservation Act. It can also be found in the Cobourg Peninsula Aboriginal Land, Sanctuary and Marine Park Act, and it can be found in the Nitmiluk (Katherine Gorge) National Park Act, and maybe there are others. The opposition knew this because they were the ones who introduced these acts when they were in government. So we see that what the previous government carried out as a matter of course is suddenly ‘a farce’ when this government does it.

Mr Acting Deputy Speaker, it will not surprise you to hear that we will not accept the amendment. On the one hand, the opposition has feigned their support for our no nuclear waste position but, on the other, they seek amendments to our legislation that render it invalid. I wish I could say that this legislation will prevent a nuclear waste dump ever being located in the Territory. I cannot. We can be overruled. However, it is the strongest statement we can make, and that is why we have introduced it and why the opposition should support it.

Very early in the piece, as a number of members said, we were the ones who ran the campaign on this. They only have to look at the words that the member for Solomon first raised this when he said that we all have a responsibility as Territorians to the rest of Australia to store other people’s nuclear waste. This bill says we are not going to stand for other people’s waste being transported to or stored in the Northern Territory.

There are other comments I could address, but I will not. The member for Nelson’s comments are not worth a response because if I have ever heard a patronising message, standing on his pedestal and wagging the finger, and telling people what to do, that was it.

Motion agreed to; bill read a second time.

In committee:
Mr CHAIRMAN: The committee has before it the Nuclear Waste Transport, Storage and Disposal (Prohibition) Bill 2004 (Serial 243), together with Schedule of Amendment number 90 circulated by the member for Brennan, Mr Burke.

Bill, by leave, taken as a whole.

Clause 5:

Mr BURKE: Mr Chairman, I move amendment 90.

Members are aware that this amendment seeks to strike out clause 5(1), based on the opposition’s belief that the clause is unnecessary. It is clear that the government is not supporting the amendment.

I heard the comments from the Attorney-General about the Solicitor General’s advice. I was not aware of the Solicitor General’s advice prior to hearing the Attorney-General’s explanation. On hearing the Solicitor General’s advice, on the one hand, I accept the advice of a person of the status of the Solicitor General. However, given the fact that the government says that this bill is of such note and seriousness, I have never heard advice from the Solicitor General that is so brief.

I would have thought the Solicitor General would have given some case precedents as to where there is consistency or inconsistency with Commonwealth legislation, which was, as I understood it, his explanation that could render the whole bill invalid. I would have thought the Solicitor General would have been more definitive in giving examples of case precedents where that has occurred in the past.

However, the Solicitor General’s advice is sufficient for the government to object to the amendment. In the absence of any more explanation from the Solicitor General, I stand by the amendment.

Ms SCRYMGOUR: Mr Chairman, in response to the member for Brennan, clause 5(1) recognises the unique constitutional position of the Northern Territory. Whilst the legislative powers of the Territory, under the Northern Territory (Self-Government) Act are broad, we are subject to certain limitations. One such limitation is with respect to laws passed by the Territory’s Legislative Assembly that are inconsistent with the law of the Commonwealth.

While the Territory is not subject to section 109 of the Constitution, which deals with inconsistent state legislation, the High Court has determined that the Territory is subject to the same principles. However, in at least one High Court decision, this principle appears to have taken a step further, leaving some doubt whether the Territory Legislative Assembly has the power to pass inconsistent legislation.

For the benefit of members, I should point out the clause to which the opposition so objects is not new, and I said that when I was summing up.

In relation to the ACT, this issue was recognised and addressed in their self-government act. The Australian Capital Territory (Self-Government) Act contains a provision almost identical to the one we are discussing here today.
The Northern Territory does not have this provision in its self-government act, as I assume you would know. When issues such as this arise, as you should also know it is necessary to insert a similar provision in Northern Territory legislation. When you said: ‘Point me to one act that has the same provision’, I did. The same provisions are found in the *Territory Parks and Wildlife Conservation Act* at section 71 and in legislation dealing with Nitmiluk and the Cobourg Marine Sanctuary.

Perhaps members opposite do not understand the law. I believe they do, and they know full well that removing this clause will stop our legislation from achieving its aim: preventing the Territory from becoming a national dumping ground for nuclear waste. As I said before, I only see their actions as a deliberate attempt to sabotage.

**Mr BURKE:** Apart from those accusatory comments, you can read well. I ask the question of the minister: you said when you quickly read that text that the *Northern Territory (Self-Government) Act* is not subject to section 109 of the Constitution and the High Court has ruled on issues in the past. Do I gather from your comments that a challenge to our legislation by the Commonwealth would be subject to High Court action?

**Ms SCRYMGOUR:** Mr Chairman, in response, yes, like any - hold on! It can be challenged, just like any other legislation introduced in this parliament.

**Mr BURKE:** Okay. So have we now reached the point that if my amendment was agreed to and the Commonwealth decided to act onerously and arbitrarily by establishing a disposal facility in the Northern Territory, and this legislation is intended to block Commonwealth action, are you telling me that the Commonwealth would have to go to the High Court in order to implement their aim?

**Ms SCRYMGOUR:** I will get some advice, but as far as I can see, no, but I will just get that checked. No. The member for Brennan surely will know that it is a fact of life in terms of the Northern Territory that the Commonwealth can override us at any time. We saw that, and you mentioned it in debate, with the *Rights of the Terminally Ill Act*. The Commonwealth overrode that. So in answering your question, I said no. That is a fact of life; that is what we face here.

**Mr BURKE:** So what you are saying to me, therefore, is that for the Commonwealth to act against our legislation, they would have to do so by a new act of the federal parliament, similar to the way they acted against the *Rights of the Terminally Ill Act*?

**Ms SCRYMGOUR:** What the Commonwealth did in the euthanasia case was amend the *Northern Territory (Self-Government) Act*, and they did that to be able to override the Territory’s powers to make such laws.

It is entirely possible that the Commonwealth could legislate to override Territory law and that is a fact of life, as I have said, for Territorians and this parliament. Passing this legislation remains, as I have said previously, the strongest statement that we can make as Territorians - and if we are all united as Territorians and we keep standing in this parliament and saying we are here for the betterment of Territorians - that we do not want to become a dumping ground for national nuclear waste.
Mr BURKE: Minister, I am working from a very short statement from the Solicitor General that remains unclear to me, but are you saying to me that if this amendment were passed, this legislation would be invalid? Without any action by the Commonwealth whatsoever, it would be invalid legislation and, if so, why?

Ms SCRYMGOUR: Answering your question, the Commonwealth has the powers to make laws in relation to the environment because it is a party to the International Convention on the Environment. It can then draw on its foreign affairs powers to make environmental legislation giving effect to these conventions. Where state legislation is consistent with legislation of the Commonwealth, this usually results in the offending provisions being struck down, and only where this is not possible will the offending legislation fail.

However, the Territory’s situation is different. Without the clause, the High Court has cast doubts on whether the Territory has the power to pass legislation at all in areas such as this where it is likely that the Commonwealth has legislated or may legislate for environmental protection. This clause protects the operation of the legislation. This clause is not needed in all Northern Territory legislation because the Northern Territory (Self-Government) Act clearly sets out an area of Territory responsibility.

It is not unusual to put up a clause such as this in areas where legislative authority is shared with the Commonwealth.

Mr BURKE: I won’t pursue it. I will have to read the Hansard transcript and seek separate advice, but I won’t pursue any further.

Amendment negatived.

Bill agreed to.

Bill reported; report adopted.

Ms SCRYMGOUR (Environment and Heritage): Madam Speaker, I move that the bill be now read a third time.

Mr BURKE (Brennan): Madam Speaker, before we dispense with this legislation, based on debate that has occurred this afternoon, the government continued to make the assertion that the CLP supports some hypothetical situation that if the Commonwealth government wanted to put a radioactive waste facility in the Northern Territory, we will support it.

I would like to put it very clearly on the record that the CLP opposition would not support any action by the Commonwealth that could possibly occur in this regard. That is clear and unequivocal and has been in our situation right throughout. What we do not support is hypocrisy. Our arguments in this debate have been, and I do not wish to go over them again, that if the government wanted the debate approached seriously, they would have provided sufficient information for a serious debate to occur, and that information has not been forthcoming.
An example of the information the government should have provided is that included in all of the studies that have occurred, and I imagine this is just a small sample, since 1992 on an issue that has been raised since the late 1980s. I would have thought a government with any maturity and responsibility to inform Territorians would have included a background summary of what has happened on this issue over the years and led to the conclusion, logically, as to why the Northern Territory government opposes any suggestion in the future if it may arise as to why a nuclear facility should be located in the Northern Territory.

That information could have been provided. The arguments could have been made. The Territory public would have been informed and you would have reached the same result. Our argument is that this has been done in a farcical manner at the outset. The information provided to the opposition and the general public during this debate has amounted to nothing more than stickers in an election campaign. If anyone wants that to be taken seriously, they do not have the opposition’s support. That is what we have been objecting to.

I make the point that the minister took the opportunity to have a go at the member for Nelson’s contribution. It was the best contribution to this debate. He spoke in a mature fashion and raised issues of logic and substance that everyone should consider. I may not agree with the end result and the opposition may not agree with the end result, but at least he argued the far better case than the government.

What we have from the government has essentially been synthesised and summarised by the member for Millner: I am a Territorian, I was born in the Territory, I want to stay in the Territory and no one’s going to stick a dump in my Territory. Fine! That is his opinion, but that should not be the way this government presents legislation.

All the information is there. The sadness is that with all the resources available to government, this has taken me weeks to go to Commonwealth libraries, using the excellent support we receive from the Parliamentary Library Service, to get information. I can tell you I do not reckon one line in any of these books – books that have been out since 1992 and have had the carriage of ministers such as Simon Crean and our Ambassador for the Northern Territory, Bob Collins - that have proposed arguments where sites could or should be located. None of that information has been presented to this parliament by the government, yet you expect the opposition to take this debate seriously.

The member for Stuart said: ‘I have been up and down the Tanami and I can go to any community in the Tanami and I can tell you that none of them know anything about this issue’. Have you read the 1995 report, minister?

Dr Toyne: I asked them.

Mr BURKE: Well, I will tell you. The 1995 report …

Dr Toyne: I can tell you what they said to me because I asked them.

Mr BURKE: No. Well, the people may not have said this to you, but the 1995 …
A member interjecting.

Mr BURKE: I am talking about the responsibility of the government to present information responsibly and maturely for debate. In the 1995 report, which had …

Mr STIRLING: A point of order, Madam Speaker. The member for Brennan had an opportunity in the second reading to introduce this material. It is inappropriate in the third reading to be introducing material that was not covered in the second reading.

Mr BURKE: It was.

Madam SPEAKER: There is no point of order.

Mr BURKE: Thank you, Madam Speaker. This was all covered in the debate. If you had been in here or not asleep, you would have known, or at least been listening to the debate.

Dr BURNS: A point of order, Madam Speaker. The member for Brennan is reflecting on the presence or absence of a member in the Chamber.

Mr BURKE: I withdraw it. The issue is this: the Attorney-General, the senior law officer in the Northern Territory, rises to provide some substance and clout for this debate, and says that no-one in the Tanami knows anything about this. Bob Collins, the Ambassador for the Northern Territory who had carriage of this legislation and carriage of this report, makes comments about the Central Land Council’s position with regards to a site in the Tanami and a site at Bloods Range, and it is good reading because it says:

> CLC provided detailed and informed comments on why it considers the Tanami region to be unsuitable to host a national radioactive waste repository.

> the criterion of good surface drainage is not met in the Tanami …;

> … Tanami is subject to seasonal monsoonal events …

Words I am flat-out pronouncing:

> … significant diurnal temperature fluctuations in the region result in significant expansion and contraction of the regolith, which has an impact on the geomorphological stability of areas.

It goes on for two pages. Then the CLC put in their submission on Bloods Range. The reality is that the sites that were identified in the Northern Territory, at the end of these studies, had very low priority from the Commonwealth. That is the point that the opposition has been trying to make in this debate. That is, when it comes to a government that suggests that we should approach this debate in a mature way, you have been absolutely derelict in your responsibility or duty to provide adequate information to the opposition or to Territorians about the history of this debate and about the very good reasons, apart from emotive reasons, why the Territory would not be a suitable site, based on the studies that have occurred, for any radioactive waste material at any time in the future.
It is all there, and I am quite confident that whether it is a Labor government or a Howard government, the first they would be going to is this sort of information and not the information that has been provided in this debate by the government.

It has been a disgrace. I reckon the member for Nelson has it right. We could have approached this debate in a mature way, but government played politics from the outset. It is still playing politics today, and the minister, quite frankly, has been a disgrace in the way she has carried it.

Mr ELFERINK (Macdonnell): Madam Speaker, I will add a few comments. The logic of leaving the section the member for Brennan tried to have excluded goes like this: I am going to let you punch me; that way, you cannot assault me. That really is the logic of that clause.

Now we have legislation that basically says the Commonwealth can do whatever it likes and, that way, they cannot roll our legislation over. So if we give the ground in the first instance, they cannot invade us. That is really the absurdity of this legislation. It is not worth the paper it is printed on.

The second thing is that the organ that this government has chosen to use to send a message, the minister’s own word, is the wrong organ. The law, and the member for Nelson had it right, has a function to maintain good order for the people of the Northern Territory. This bill undermines itself in clause 5(1).

If the parliament of the Northern Territory wanted to send a message to the Commonwealth government, the organ that they should have used and is available to this government is a motion. We have sent, as a parliament, motions to the Commonwealth government on numerous occasions. We have sent remonstrances, there are two on the Parliamentary Record, as well as motions even quite recently in relation to what the Commonwealth government has or not provided for roads funding. That is how you send a message.

It would have been a much more convincing message if the words of the motion could have been captured that were acceptable to both sides of this House and perhaps even to the member for Nelson, depending on the words of the words of the motion, by which the whole parliament could have sent a message to Canberra.

Of course, that is not the intention of this legislation. The intention was a political stunt. We now have a political stunt as a law of the Northern Territory. I am becoming concerned about this government’s pedestrian attitude towards things like legislation. The member for Nelson referred to it as being ‘sacred’. Perhaps I would not go so far as ‘sacred’, but it needs to maintain integrity to be taken seriously.

Legislation is relied upon by the courts and by people to stand as a beacon to provide direction for them in our community. If we start to temper or in any way water down the legitimacy and integrity of the legislation that we pass because of stunts that we are trying to pull, it will not be too long before we become a laughing stock. I urge members of the government to consider and reconsider that as a matter of priority because the integrity of legislation is all that stands between us and, basically, social
oblivion. I urge the government to stop using legislation as a vehicle for political outcomes.

Motion agreed to; bill read a third time.