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SITTING DAYS—2005

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- **Canberra**: 103.9 FM
- **Sydney**: 630 AM
- **Newcastle**: 1458 AM
- **Gosford**: 98.1 FM
- **Brisbane**: 936 AM
- **Gold Coast**: 95.7 FM
- **Melbourne**: 1026 AM
- **Adelaide**: 972 AM
- **Perth**: 585 AM
- **Hobart**: 747 AM
- **Northern Tasmania**: 92.5 FM
- **Darwin**: 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—FOURTH PERIOD

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

House of Representatives Officeholders

Speaker—The Hon. David Peter Maxwell Hawker MP
Deputy Speaker—The Hon. Ian Raymond Causley MP
Second Deputy Speaker—Mr Henry Alfred Jenkins MP
Members of the Speaker’s Panel—The Hon. Dick Godfrey Harry Adams, Mr Robert Charles Baldwin, the Hon. Bronwyn Kathleen Bishop, Mr Michael John Hatton, Mr Peter John Lindsay, Mr Robert Francis McMullan, Mr Harry Vernon Quick, the Hon. Bruce Craig Scott, the Hon. Alexander Michael Somlyay, Mr Kim William Wilkie

Leader of the House—The Hon. Anthony John Abbott MP
Deputy Leader of the House—The Hon. Peter John McGauran MP
Manager of Opposition Business—Ms Julia Eileen Gillard MP
Deputy Manager of Opposition Business—Mr Anthony Norman Albanese MP

Party Leaders and Whips

Liberal Party of Australia

Leader—The Hon. John Winston Howard MP
Deputy Leader—The Hon. Peter Howard Costello MP
Chief Government Whip—Mr Kerry Joseph Bartlett MP
Government Whips—Mrs Joanna Gash MP and Mr Fergus Stewart McArthur MP

The Nationals

Leader—The Hon. Mark Anthony James Vaile MP
Deputy Leader—The Hon. Warren Errol Truss MP
Whip—Mr John Alexander Forrest MP
Assistant Whip—Mr Paul Christopher Neville MP

Australian Labor Party

Leader—The Hon. Kim Christian Beazley MP
Deputy Leader—Ms Jennifer Louise Macklin MP
Chief Opposition Whip—The Hon. Leo Roger Spurway Price MP
Opposition Whips—Mr Michael David Danby MP and Ms Jill Griffiths Hall MP

Printed by authority of the House of Representatives
Members of the House of Representatives

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**PARTY ABBREVIATIONS**

ALP—Australian Labor Party; LP—Liberal Party of Australia; Nats—The Nationals; Ind—Independent; CLP—Country Liberal Party; AG—Australian Greens

## Heads of Parliamentary Departments

- Clerk of the Senate—H Evans
- Clerk of the House of Representatives—I C Harris
- Secretary, Department of Parliamentary Services—H R Penfold QC
HOWARD MINISTRY

Prime Minister
The Hon. John Winston Howard MP

Minister for Trade and Deputy Prime Minister
The Hon. Mark Anthony James Vaile MP

Treasurer
The Hon. Peter Howard Costello MP

Minister for Transport and Regional Services
The Hon. Warren Errol Truss MP

Minister for Defence and Leader of the Government in the Senate
Senator the Hon. Robert Murray Hill

Minister for Foreign Affairs
The Hon. Alexander John Gosse Downer MP

Minister for Health and Ageing and Leader of the House
The Hon. Anthony John Abbott MP

Attorney-General
The Hon. Philip Maxwell Ruddock MP

Minister for Finance and Administration, Deputy Leader of the Government in the Senate and Vice-President of the Executive Council
Senator the Hon. Nicholas Hugh Minchin

Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House
The Hon. Peter John McGauran MP

Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs
Senator the Hon. Amanda Eloise Vanstone

Minister for Education, Science and Training
The Hon. Dr Brendan John Nelson MP

Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues
Senator the Hon. Kay Christine Lesley Patterson

Minister for Industry, Tourism and Resources
The Hon. Ian Elgin Macfarlane MP

Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service
The Hon. Kevin James Andrews MP

Minister for Communications, Information Technology and the Arts
Senator the Hon. Helen Lloyd Coonan

Minister for the Environment and Heritage
Senator the Hon. Ian Gordon Campbell

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

Leader of the Opposition  
The Hon. Kim Christian Beazley MP

Deputy Leader of the Opposition and Shadow Minister for Education, Training, Science and Research  
Jennifer Louise Macklin MP

Leader of the Opposition in the Senate, Shadow Minister for Indigenous Affairs and Shadow Minister for Family and Community Services  
Senator Christopher Vaughan Evans

Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology  
Senator Stephen Michael Conroy

Shadow Minister for Health and Manager of Opposition Business in the House  
Julia Eileen Gillard MP

Shadow Treasurer  
Wayne Maxwell Swan MP

Shadow Attorney-General  
Nicola Louise Roxon MP

Shadow Minister for Industry, Infrastructure and Industrial Relations  
Stephen Francis Smith MP

Shadow Minister for Foreign Affairs and Trade and Shadow Minister for International Security  
Kevin Michael Rudd MP

Shadow Minister for Defence  
Robert Bruce McClelland MP

Shadow Minister for Regional Development  
The Hon. Simon Findlay Crean MP

Shadow Minister for Primary Industries, Resources, Forestry and Tourism  
Martin John Ferguson MP

Shadow Minister for Environment and Heritage, Shadow Minister for Water and Deputy Manager of Opposition Business in the House  
Anthony Norman Albanese MP

Shadow Minister for Housing, Shadow Minister for Urban Development and Shadow Minister for Local Government and Territories  
Senator Kim John Carr

Shadow Minister for Public Accountability and Shadow Minister for Human Services  
Kelvin John Thomson MP

Shadow Minister for Finance  
Lindsay James Tanner MP

Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services  
Senator the Hon. Nicholas John Sherry

Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women  
Tanya Joan Plibersek MP

Shadow Minister for Employment and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility  
Senator Penelope Ying Yen Wong

(The above are shadow cabinet ministers)
SHADOW MINISTRY—continued

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

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

Shadow Minister for Transport
Senator Kerry Williams Kelso O’Brien
Shadow Minister for Sport and Recreation
Senator Kate Alexandra Lundy
Shadow Minister for Homeland Security and
Shadow Minister for Aviation and Transport Security
The Hon. Archibald Ronald Bevis MP

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

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

Shadow Minister for Immigration
Anthony Stephen Burke MP
Shadow Minister for Aged Care, Disabilities and
Carers
Senator Jan Elizabeth McLucas

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

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

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

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

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

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP
Shadow Parliamentary Secretary for Environment
and Heritage
Jennie George MP

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

Shadow Parliamentary Secretary for Immigration
Ann Kathleen Corcoran MP
Shadow Parliamentary Secretary for Treasury
Catherine Fiona King MP
Shadow Parliamentary Secretary for Science and
Water
Senator Ursula Mary Stephens

Shadow Parliamentary Secretary for Northern
Australia and Indigenous Affairs
The Hon. Warren Edward Snowdon MP
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The SPEAKER (Hon. David Hawker) took the chair at 9.00 am and read prayers.

NATIONAL HEALTH AMENDMENT (BUDGET MEASURES—PHARMACEUTICAL BENEFITS SAFETY NET) BILL 2005

First Reading

Bill presented by Mr Pyne, for Mr Abbott, and read a first time.

Second Reading

Mr PYNE (Sturt—Parliamentary Secretary to the Minister for Health and Ageing) (9.01 am)—I move:

That this bill be now read a second time.

The aim of the Pharmaceutical Benefits Scheme is to ensure that Australians have affordable access to high-quality necessary medicines in the community. It does this by subsidising the cost of PBS medicines and limiting the amount that people pay for prescriptions at the point of sale. In addition, the PBS safety net protects individuals and families who need a large number of medicines from high cumulative costs. The PBS serves Australians well and is justifiably regarded as one of the best systems of its kind in the world.

Expenditure on the PBS and the Repatriation Pharmaceutical Benefits Scheme for veterans has grown at an average rate of 12 per cent per annum for the last 10 years. The cost to Australia of the PBS and the RPBS was around $6.5 billion in 2004-05.

This bill implements government budget measures designed to support the affordability of the PBS into the future. The bill increases the PBS safety net threshold over the next four years and introduces new safety net arrangements for early supply of some PBS medicines.

The measures recognise that the PBS is important to the health of Australians. The sensible and practical steps in this bill demonstrate determination to preserve this valued part of the Medicare system for our children and future generations. We have a responsibility to keep watch on the cost of the PBS for the community as a whole and the costs for the individuals and families at the time of purchasing PBS medicines.

The measures also recognise that everyone who obtains PBS medicines plays a role by accessing and using those medicines wisely.

The proposed changes will increase the amount of the PBS safety net threshold. The threshold for general patients will increase by an amount equal to two general patient copayments and the threshold for concessionals by two concessional copayments each year from 2006 to 2009.

This means that the general safety net threshold, currently $874.90, will increase progressively by amounts equal to two indexed copayments each year for four years, resulting in a safety net threshold in 2009 which includes eight additional copayments.

The concessional safety net threshold, which is currently $239.20 and equal to 52 prescription copayments, will increase by two copayments each year to 54 prescriptions in 2006; 56 in 2007; 58 in 2008; and 60 in 2009.

These increases will come into effect on 1 January each year and will be in addition to the usual annual indexation based on CPI.

These incremental changes will result in a gradual adjustment of the thresholds over several years and will help to rebalance the way costs for the PBS as a taxpayer funded scheme are shared between the community as a whole and individuals using medicines.
The reduction in patient copayments after reaching the safety net thresholds will remain the same. For concessional patients, PBS medicines will continue to be supplied free of charge after the concessional threshold is reached. For general patients, the copayment will reduce to the concessional amount once the threshold is reached. The safety net copayment rates apply for the remainder of the calendar year, except for an early resupply of a specified medicine which is not eligible for safety net entitlements.

The amendments also introduce new safety net arrangements for some PBS medicines for long-term therapy when a repeat supply occurs within 20 days of a previous supply of the same medicine for the same person.

The existing PBS ‘immediate supply’ provisions allow for subsidised resupply of some medicines to occur within 20 days if the medicine has been destroyed, lost, stolen or is required without delay for treatment. If this were to occur for a medicine subject to the new safety net 20-day rule, the copayment will not count towards the safety net threshold or, if the safety net threshold has been reached, the usual copayment amount, not the reduced safety net copayment amount, will apply.

The medicines which will fall under these new provisions will be subject to expert advice from the Pharmaceutical Benefits Advisory Committee to ensure that the new rules apply only to those medicines where it is appropriate.

The measure supports the quality use of PBS medicines by discouraging patients from obtaining additional or early supplies in excess of needs. It will help to reduce wastage and reduce the risk that excess medicines in the community can pose to patients and others.

The proposal encourages responsible use of PBS entitlements and safety net arrangements. It removes the incentive to obtain extra PBS medicines for the purpose of accessing safety net advantages.

The safety net 20-day rule will mean that patients will achieve the best value for PBS copayments by complying with standard PBS entitlements, not by attempting to maximise safety net benefits by obtaining excess supplies.

The safety net 20-day rule is a sensible way to reduce inappropriate demand. The new rule will only apply to PBS medicines where, on expert advice, it is appropriate. It is reasonable that, if an additional or early supply of one of these medicines is required, it should be eligible for PBS subsidy but not be eligible for safety net benefits.

This approach will discourage unnecessary supply of PBS medicines and reduce wastage costs.

Importantly, this proposal continues to allow for access to additional supplies of PBS medicines under the ‘immediate supply’ provisions when that is required. It is fair for the individual, the PBS and the community as a whole.

The safety net 20-day rule will not apply to PBS medicines supplied on prescriptions relating to treatment at a hospital or day hospital facility. This means that PBS medicines prescribed in private hospitals, discharge medicines prescribed at participating PBS reform hospitals and outpatient medications supplied at public hospitals will not be affected.

This bill delivers two measures which support responsible and affordable access to the PBS.

The safety net will continue to play an important role in protecting people from high out-of-pocket costs for PBS medicines.
The PBS and all who use it will benefit from changes which reflect sound management and a commitment to fair, affordable access.

I commend the bill to the House. I present the explanatory memorandum to this bill.

Debate (on motion by Mr Bevis) adjourned.

NATIONAL HEALTH AMENDMENT (IMMUNISATION PROGRAM) BILL 2005

First Reading

Bill presented by Mr Pyne, for Mr Abbott, and read a first time.

Second Reading

Mr PYNE (Sturt—Parliamentary Secretary to the Minister for Health and Ageing) (9.08 am)—I move:

That this bill be now read a second time.

The government is committed to ensuring that Australians can continue to access free vaccines to protect the population against vaccine preventable diseases through the National Immunisation Program (NIP).

Our immunisation system is world class. Immunisation coverage rates for 12-month-old children have been above 90 per cent for the last five consecutive years. The proof of the success of the program can be measured by the large declines in rates of vaccine preventable diseases and, in the case of polio and smallpox, eradication of the diseases from Australia.

This government is proud of its record of achievement in funding vaccines. Australian government expenditure on vaccines has increased 22-fold from $13 million in 1996 to $288 million in 2004-05.

The Australian government provides funds to state and territory governments to purchase vaccines under the NIP. The states and territories then provide the vaccines free of charge to providers so that the target population can be immunised against vaccine preventable diseases.

In the 2005-06 budget, the Australian government announced an expansion of the role of the Pharmaceutical Benefits Advisory Committee (PBAC) to include evaluating the cost-effectiveness of new vaccines for funding under the NIP. The increasing numbers of new vaccines and expensive technologies have made examination of the cost-effectiveness of vaccines more critical. The PBAC has a long track record in examining the cost-effectiveness of pharmaceuticals and in advising government in a transparent and rigorous way.

The PBAC, a statutory body established under the National Health Act 1953, provides advice to government on drugs that should be listed on the Pharmaceutical Benefits Scheme (PBS). In making a recommendation for a drug to be listed on the PBS, the PBAC is required by law to consider the cost-effectiveness of the drug compared to existing alternative therapies. The PBAC has developed a reputation as a world leader in the rigorous application of evidence based assessment in developing funding recommendations.

The PBAC process is being copied by other countries around the world. It is only reasonable that we apply it to government expenditure on vaccines here in Australia. The PBAC process rewards truly innovative medicines that demonstrably improve the health of our people. It ensures that medicines that provide the same health outcomes are priced the same.

The bill will allow the functions of the PBAC to be expanded to include providing the Minister for Health and Ageing with advice about vaccines to be funded under the NIP. The PBAC will also continue to have the authority to recommend to the govern-
The amendments in this bill will come into effect in early 2006. These amendments will enable the Australian government, working on behalf of the public, to receive high-quality advice through a strong emphasis on cost-effectiveness considerations via an established, transparent and rigorous evidence based process.

The PBAC process will allow government consideration of vaccine funding in a more timely and controlled manner. The new advisory arrangements will clarify for industry and the community the process for recommending vaccines for Australian government funding.

A strong NIP is important not only for government but for all Australians. As new and more complex vaccines are developed, steps must be taken to ensure that the immunisation program is as efficient and effective as possible. We need to put into place advisory arrangements that assure the cost-effectiveness of the vaccines provided under the NIP.

The bill reaffirms the government’s commitment to the NIP. The bill will strengthen the cost-effectiveness evaluation of vaccines and streamline the consideration of proposals to fund vaccines under the immunisation program.

In the 2005-06 budget, the government also announced administrative arrangements to improve vaccine pricing processes. In future, pricing for all vaccines recommended by the PBAC for funding under the NIP will be set by the Pharmaceutical Benefits Pricing Authority (PBPA). This change allows the PBPA to recommend appropriate prices for vaccines. The PBPA’s established discipline and methods for price determination will provide a mechanism through which prices for vaccines funded under the NIP can be independently assessed and reviewed.

Taking these sensible and bold steps demonstrates the government’s determination to protect Australians against vaccine preventable diseases in a responsible and efficient way, for the benefit of both current and future generations. The government will ensure that our national resources, including our expert advisory committees, are used in a way that provides maximum benefit to Australians.

I commend the bill to the House and present the explanatory memorandum.

Debate (on motion by Mr Bevis) adjourned.

HEALTH LEGISLATION AMENDMENT BILL 2005

First Reading

Bill presented by Mr Pyne, for Mr Abbott, and read a first time.

Second Reading

Mr PYNE (Sturt—Parliamentary Secretary to the Minister for Health and Ageing) (9.14 am)—I move:

That this bill be now read a second time.

The Health Legislation Amendment Bill 2005 proposes a number of amendments to legislation within the Health and Ageing portfolio.

The Health Legislation Amendment Bill amends the National Health Act 1953 to extend until 30 June 2006 the existing arrangements for approving pharmacists to supply medicines subsidised under the Pharmaceutical Benefits Scheme—the PBS.

The National Health Act 1953 currently provides for the establishment of the Australian Community Pharmacy Authority—the ACPA. The ACPA’s role is to consider applications made by pharmacists for approval to supply PBS medicines and to make recom-
mendations as to whether or not such applications should be approved.

In making its recommendations, the ACPA must comply with a set of rules determined by the Minister for Health and Ageing in accordance with the act. These rules, known as the pharmacy location rules, prescribe location based criteria which must be satisfied in order for a pharmacist to obtain approval to supply PBS medicines from particular premises.

The act currently provides for the pharmacy location rules and the ACPA to cease to operate at the end of 31 December 2005.

The bill amends the act to provide for the pharmacy location rules and their administration by the ACPA to continue to operate until the end of 30 June 2006.

In accordance with a commitment made in the third community pharmacy agreement between the Commonwealth and the Pharmacy Guild of Australia, a joint review of the pharmacy location rules has been undertaken. Extension of the existing arrangements until the end of 30 June 2006 will enable the government, in consultation with the Pharmacy Guild of Australia, to carefully consider the findings and recommendations of the review in relation to the pharmacy location rules and the role of the ACPA.

Schedule 2 contains proposed amendments to a number of provisions in the National Health Act 1953 and corrects a number of technical loopholes in the existing legislation.

A number of the regulatory provisions governing private health insurance in the act inappropriately apply only in respect of the payer of health insurance premiums to a private health insurance fund, the ‘contributor’, and do not include reference to the dependants of the contributor, who are also members. Literal interpretation of a number of the existing provisions could result in dependants being excluded from cover. For example, current provisions relating to hospital purchaser provider agreements could be argued to only apply where the contributor is the patient receiving hospital treatment and not where the contributor’s dependant is the patient. The situation arises even where the contributor has paid for his/her dependants to be covered by private health insurance.

Schedule 2 will amend specified provisions in part VI and schedule 1 of the National Health Act 1953 for the purpose of ensuring that these provisions adequately cover the contributor’s dependants and, thereby, clearly indicate that the regulatory scheme governing registered health benefits organisations applies to all members of a health insurance fund with appropriate coverage. The aim of schedule 2 of the bill is to ensure that health funds continue to cover a member with appropriate cover receiving medical-hospital treatment whether that member is classified as a dependant or a contributor to that health fund.

The amendments will ensure that all members of health insurance funds with appropriate insurance cover are adequately covered by the existing regulatory scheme. In addition, the amendments to provisions inserted in the National Health Act 1953 by the National Health Amendment (Prostheses) Act 2005 will ensure that the application of the new provisions providing for the regulation of health insurance funds in relation to the prostheses arrangements also provides adequate coverage of all persons covered by private health insurance policies.

Schedule 3 of the bill makes two amendments to the Health Insurance Act 1973. The first amendment clarifies the scope of the power to make the Medicare tables. It has been a longstanding practice to specify, in the Medicare tables, conditions that must be met for Medicare benefits to be payable for
health services. The amendments remove any doubt as to the validity of including such conditions in the tables.

The second amendment to the Health Insurance Act is to insert a new power that allows the minister to make a legislative instrument determining that Medicare benefits are not payable in respect of professional services rendered in specified circumstances. A power of this kind is required to allow swift action to be taken to prevent medical practitioners claiming existing Medicare Benefits Schedule items for services which they were never intended to cover or which the government does not wish to fund through Medicare.

Problems in this area most commonly arise in relation to the development of new medical technologies. Medical practitioners sometimes claim new medical technologies under existing Medicare items before the government is satisfied that the new technology is safe or that it represents value for money.

With the rapid advances in medical technology this has the potential to drive up the costs of Medicare and to impact on the broader health system through, for example, increased private health insurance premiums. I commend the bill to the House and present the explanatory memorandum to the bill.

Debate (on motion by Mr Bevis) adjourned.

THERAPEUTIC GOODS AMENDMENT BILL (No. 2) 2005

First Reading

Bill presented by Mr Pyne, for Mr Abbott, and read a first time.

Second Reading

Mr PYNE (Sturt—Parliamentary Secretary to the Minister for Health and Ageing) (9.20 am)—I move:

That this bill be now read a second time.

The Therapeutic Goods Amendment Bill (No. 2) 2005 being introduced today amends the Therapeutic Goods Act 1989 to remove the need to undertake unnecessary patent searches for certain applicants seeking to list or register a therapeutic good on the Australian Register of Therapeutic Goods.

The amendments seek to rectify an unintended consequence of previous amendments which came into force from 1 January 2005 to introduce into the marketing approval process certification requirements in relation to patents.

The current patent certification provisions under the act require applicants seeking to include therapeutic goods in the register to certify either:

- that they will not enter the market in a manner that would infringe a patent on the product, or
- if they intend to enter the market before the expiry of any applicable patent on that product, that they have notified the patent owner of their application.

This bill responds to concerns raised by representatives from the complementary medicines industry, over-the-counter medicines sector and the Australian biotech industry that the current patent certification requirements are onerous and are broader than they need to be.

This bill narrows the circumstances in which the patent certificate is required by applicants seeking to have therapeutic goods included in the register.

This bill amends the act so that patent certification will only be required by those applicants:

- who are required to submit safety or efficacy data for the purposes of applying for the inclusion of the goods in the register, and
who rely on safety or efficacy data previously submitted to the Therapeutic Goods Administration by another person in relation to an approved product, as part of the process for applying for the approval of that product.

Under the bill, all applicants seeking to list or register therapeutic goods (except therapeutic and medical devices) in the register will either notify the secretary that the patent certification requirements do not apply or provide a patent certificate.

This amendment will remove the unnecessary requirement for the owners of those products for which the patent certification requirement under the act is not relevant.

The practical effect of this amendment will mean that the majority of complementary medicines, over-the-counter products and originator medicines will no longer be subject to certification requirements.

Over 90 per cent of over-the-counter medicines are registered medicines. Of these registered over-the-counter medicines, around 80 per cent are formulated from well-documented active ingredients where adequate information on the use and formulation are contained in standard reference texts. In these cases, the sponsors are not required to submit safety or efficacy data on the product. They would therefore not be required to certify in relation to patents.

For the other 20 per cent of registered over-the-counter medicines, sponsors are required to submit both safety and efficacy data. They would therefore be subject to certification requirements if they rely on safety or efficacy data previously submitted to the TGA by another person in relation to an approved product as part of the process of applying for the approval of that product.

The two main exceptions to note for over-the-counter medicines are sunscreens and medicated throat lozenges, both of which are listable products. Listed products under section 26A of the act do not have to submit evidence or information to establish the safety or efficacy of their product as part of the application process for the listing of goods in the register. Therefore they are not required to provide a certificate in relation to patents.

In the case of complementary medicines, over 90 per cent are listable. Listed products under section 26A of the act do not have to submit evidence or information to establish the safety or efficacy of their product as part of the application process for the listing of goods in the register. Therefore they are not required to provide a certificate in relation to patents.

The remaining 10 per cent of complementary medicines are registered medicines. This is because they either contain higher-risk ingredients, for example ingredients that are scheduled or that have not been assessed as low-risk ingredients, or make higher-level claims.

For these registered complementary medicines, sponsors are required to submit both safety and efficacy data. Therefore they would be subject to certification requirements if they rely on safety or efficacy data previously submitted to the TGA by another person in relation to an approved product as part of the process of applying for the approval of that product.

For prescription medicines, which are registered medicines, sponsors are required to submit both safety and efficacy data. They would therefore be subject to certification requirements if relying on safety or efficacy data previously submitted to the TGA by another person in relation to an approved product as part of the process of applying for the approval of that product.

This represents a change from the current requirement, whereby sponsors of all prod-
ucts are required to provide a certificate in relation to patents, irrespective of whether they have relied on someone else’s data in relation to the safety or efficacy of another product, to demonstrate the safety and efficacy of their own product.

In the case of originator medicines, the majority of products (including those registered by biotechs) will not have to certify because, although they are required to submit safety or efficacy data, they do not rely on safety or efficacy data previously submitted to the TGA by another person in relation to an approved product as part of the process of applying for the approval of that product.

Applicants who are required to submit data to establish the safety or efficacy of therapeutic goods as part of the process of applying for inclusion in the register, and who rely on safety or efficacy data previously submitted to the TGA by another person, will continue to be subject to the certification requirements. This will ensure that sponsors of generic medicines will have to provide a certificate in relation to patents.

This amendment will have no added burden on industry. The notification process being introduced as part of the amendments is simply an administrative process to ensure that an application for marketing approval is not delayed by a failure to provide certification where it is not required.

This will not impose a burden, as applicants will know whether or not they are required to submit evidence or information to demonstrate the safety or efficacy of their product and whether or not they are relying on the data submitted by another party.

Therefore, the notification process will be less of a burden than the current provisions around providing a certificate in relation to patents.

While the amendment simplifies the administrative burden on industry, it in no way changes or diminishes industry’s responsibility in relation to supplying medicines that fully meet all the existing safety, quality and efficacy requirements as set out in the Therapeutic Goods Act.

I commend the bill to the House and present the explanatory memorandum.

Debate (on motion by Mr Bevis) adjourned.

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

First Reading

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

Second Reading

Mr RUDDOCK (Berowra—Attorney-General) (9.28 am)—I move:

That this bill be now read a second time.

This bill demonstrates the government’s ongoing commitment to combating terrorism.

We have worked hard to ensure that there is a strong legislative framework in place, with tough laws that target terrorist activity.

We are also making sure that our terrorism laws are enforceable.

It is becoming clear that, to successfully prosecute a terrorist, it will often be necessary to rely on evidence from witnesses who are living overseas. In some cases a witness may be unable to travel to Australia to give evidence. For example, the witness may be incarcerated overseas.

This bill will ensure that, in terrorism cases, so long as the defendant’s right to a fair trial is not infringed, important evidence from overseas witnesses can be put before the court using video link technology.

The new video link provisions will apply to the prosecution of terrorism and related
offences, and to proceeds of crime proceedings relating to a terrorism offence.

The provisions will require a court to allow a prosecution witness to give evidence by video link unless to do so would have a substantial adverse effect on the right the defendant to receive a fair hearing.

They will also allow a defence witness to give evidence by video link unless to do so would be inconsistent with the interests of justice.

The new video link evidence provisions strike a balance between facilitating the admission of video link evidence while ensuring that fundamental safeguards are maintained.

The court will be able to require that an independent observer is present at the point where the witness is giving the evidence by video link. This person will be able to report to the court on the physical circumstances under which the evidence is given. This is a safeguard that will ensure that the court is aware of everything that is occurring at the point where the witness is giving the evidence.

Another important feature of the new video link evidence rules is that, if a court refuses to allow a witness to give evidence by video link, that decision will be capable of being appealed.

The bill will also make corresponding changes to the Foreign Evidence Act 1994 to facilitate the use of foreign material, such as video tapes and transcripts of examinations, as evidence in terrorism cases. This will be important in cases where it is not possible to use video link technology, perhaps because of the laws of another country.

These changes do not affect the rules of evidence, and the normal protections which apply under those rules will continue to apply to terrorism proceedings.

Although the major focus of the bill is on video link evidence, it also includes a number of other important legislative amendments.

The bill will amend section 4AAA of the Crimes Act 1914 to deal with a constitutional issue regarding the conferral of non-judicial powers and functions on judges of the Federal Court of Australia and federal magistrates.

The bill will also amend the Crimes Act 1914 to facilitate the sharing of DNA profiles between Australian law enforcement agencies over a national DNA database system.

The bill will also expand the definition of ‘tape recording’ in the Crimes Act 1914 to enable new technologies, such as digital audio recording technology, to be used by federal law enforcement agencies to record interviews.

The bill will also amend the Surveillance Devices Act 2004 so that, when a surveillance device has been installed under an authorisation, a warrant can be obtained to allow that surveillance device to be retrieved.

The bill also amends the Proceeds of Crime Act 2002 to ensure that third parties, such as the Administrative Appeals Tribunal, which carry out examinations for the Commonwealth can be paid out of the confiscated assets account. It will also address a technical problem which has cast doubt over the validity of a number of examinations that were conducted under the Proceeds of Crime Act 2002 after changes were made to the regulations authorising members of the Administrative Appeals Tribunal to conduct examinations.

I commend the bill to the House and present the explanatory memorandum.

Debate (on motion by Mr Bevis) adjourned.
TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT (STORED COMMUNICATIONS AND OTHER MEASURES) BILL 2005

First Reading

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

Second Reading

Mr RUDDOCK (Berowra—Attorney-General) (9.33 am)—I move:

That this bill be now read a second time.

This bill amends the Telecommunications (Interception) Act 1979 to extend for six months the operation of the provisions that enable access to stored communications without the need for a warrant under the interception act.

The bill also makes a number of important improvements to the interception act to better equip agencies in the fight against corruption committed by police and other public officials.

The Telecommunications (Interception) Amendment (Stored Communications) Act 2004 introduced into the interception act the concept of a ‘stored communication’ and provided that a stored communication could be intercepted without the need for a telecommunications interception warrant.

Access to such communications could therefore be obtained by other lawful means, such as by a normal search warrant.

These amendments were intended as an interim measure pending a thorough independent consideration of how best to regulate access to communications in the ever-changing world of technologies.

As an interim measure, the amendments included a 12-month sunset clause meaning that the provisions will cease to operate on 14 December 2005.

In March this year I appointed Mr AS Blunn AO to conduct a review of the regulation of access to stored communications and I have now received the report from that review.

I thank Mr Blunn for his work.

I am pleased to present a copy of Mr Blunn’s report to the House and to advise that it will shortly be available on the Attorney-General’s internet site.

Mr Blunn has made a number of recommendations in relation to stored communications.

This is a complex area of the law, complicated further by the rapid expansion of new and emerging technologies.

The Blunn recommendations need to be fully considered in order to ensure that the interception act is able to keep pace with these changes.

I therefore propose that the current provisions dealing with access to stored communications be extended for a further six months.

This will maintain the status quo to give the government sufficient time to fully consider the recommendations in relation to stored communications and other issues contained in the Blunn review.

However, the main focus of this bill is on updating the interception act so that agencies that have been established to combat corruption are able to access and use lawfully obtained intercepted information where it is appropriate to do so.

These proposals have been developed separately to the issues addressed by Mr Blunn and demonstrate the government’s continued commitment to stamping out corruption.

Corruption by public officials, including police, may endanger the stability and secu-
Corruption may also be linked with other forms of crime, in particular organised crime and economic crime, including money laundering.

Australia has a number of authorities that have been established with the specific aim of investigating and punishing those public officials who abuse the trust that their office brings.

Recently the Victorian government has contributed to this fight against corruption by establishing the Office of Police Integrity.

The objective of this body is to ensure that police corruption and serious misconduct is detected, investigated and prevented.

Intercepted material often provides vital evidence of corruption and therefore this bill will make the Victorian Office of Police Integrity an eligible authority for the purposes of the interception act.

This means that the director will be able to receive and use lawfully obtained intercepted material for the purpose of fulfilling its statutory obligation to investigate police misconduct including corruption.

This amendment follows extensive consultation with the Victorian government about the need to ensure that there are appropriate accountability and oversight arrangements for the Office of Police Integrity.

I welcome the Victorian government’s decision to enact legislation to address the Australian government’s concerns.

Nevertheless, the amendments proposed by this bill will not commence if those amendments have not been enacted or if they fall short of the applicable standards.

The bill will also amend the Interception Act to enable the New South Wales Independent Commission Against Corruption, the Queensland Crime and Misconduct Commission and the New South Wales Inspector of the Police Integrity Commission to use lawfully obtained intercepted material for the purposes of their statutory function of investigating corrupt conduct.

These bodies are already eligible authorities for the purposes of the Interception Act but were restricted in the way in which they could use intercepted material.

The amendments made by this bill correct that anomaly and will assist those agencies in their ongoing fight against corruption.

Accountability and transparency are key elements of public authorities.

To this end, the New South Wales government has created the Inspector of the Independent Commission Against Corruption to audit the commission’s operations and to deal with complaints about the commission (including complaints about abuse of power, impropriety and other forms of misconduct by the commission or its officers).

As with other bodies that are established to deal with complaints about misconduct by public officials, having access to intercepted material will greatly assist the new inspector to fulfil its statutory role.

The bill will therefore make the inspector an eligible authority so that it may use intercepted material for the purpose of its function of dealing with complaints.

The final anti-corruption measure is to clarify the expression ‘officer of a state’. It includes all members of the police service of that state.

While the definition currently includes all people who are employed under a law of a state, such as the civilian component of police forces, there is some uncertainty.

The amendments will ensure that intercepted material may be used in relation to the investigation of misconduct, including
corruption, committed by all persons who are employed under a law of a state.

The anti-corruption measures illustrate the Australian government’s commitment to the fight against corruption.

Finally, the bill will make technical amendments to the Interception Act to remove references to the Acts Interpretation Act 1901 consequential on the enactment of the Legislative Instruments Act 2003.

I commend the bill to the House and table the explanatory memorandum.

Debate (on motion by Mr Bevis) adjourned.

CUSTOMS TARIFF AMENDMENT (COMMONWEALTH GAMES) BILL 2005
First Reading
Bill presented by Mr Ruddock, and read a first time.

Second Reading
Mr RUDDOCK (Berowra—Attorney-General) (9.40 am)—I move:

That this bill be now read a second time.

The Customs Tariff Amendment (Commonwealth Games) Bill 2005 contains an amendment to the Customs Tariff Act 1995 to provide duty-free entry for goods for use in, or for purposes related to, the Melbourne 2006 Commonwealth Games.

Similar concessions were provided for the Sydney 2000 Olympic and Paralympic Games.

It is expected that Commonwealth Games participants and officials will bring with them a variety of goods that are to be used in a non-commercial manner. These will include give-aways, hospitality samples and other consumables that will be used for team promotion and for cultural and hospitality activities. It is intended that the concession will not apply to alcohol or tobacco products or extend to importations of a commercial nature.

Existing provisions under Customs legislation relating to personal effects and temporary importations will also be available for purposes relating to the Commonwealth Games.

I commend the bill to the House and table the explanatory memorandum.

Debate (on motion by Mr Bevis) adjourned.

HIGHER EDUCATION LEGISLATION AMENDMENT (2005 MEASURES No. 4) BILL 2005
First Reading
Bill presented by Dr Nelson, and read a first time.

Second Reading
Dr NELSON (Bradfield—Minister for Education, Science and Training) (9.42 am)—I move:

That this bill be now read a second time.

Before I introduce the specific measures in this bill, I would like to recap some of the significant achievements in higher education reform to date in Australia.

The government’s continuing commitment to the higher education sector is to provide students with better facilities and more course options across a range of campuses. The Australian government’s priorities for higher education are to ensure that universities continue to diversify, that they are a part of an internationally competitive higher education sector and that our best universities continue to remain in the top tier of world rankings.

Laying the foundation for this commitment is an increase in public investment in higher education of more than $11 billion over the next 10 years, from 2005. As honourable members would be aware, in this
year’s 2005-06 budget, Australia’s higher education sector will benefit from a record $7.8 billion investment from the Australian government.

The bill now before the House is a clear expression of our commitment to students to provide real choice in their higher education studies.

The bill will amend the Higher Education Support Act 2003 to enable high-quality foreign universities to establish institutions in Australia and offer education and training services to international and domestic students.

The first of these universities is the Carnegie Mellon University, which proposes to establish a branch in Adelaide. This proposal has received the resounding support of the Premier of South Australia, Mr Mike Rann, and I must commend the extraordinary efforts by the Minister for Foreign Affairs, the member for Mayo.

Carnegie Mellon is a high-quality education and research institution which ranks 38 out of 200 on the Times Higher Education Supplement ranking of the top world universities and 54 out of 500 on the Shanghai Jiao Tong University’s ranking of the top world universities. In 2006, Carnegie Mellon was ranked first by the US News and World Report magazine survey of graduate schools in information and technology management.

The Australian branch of Carnegie Mellon University is expected to attract more students to Adelaide from the Asia-Pacific region and contribute to its plan to transform Adelaide into a global university city of excellence. It will also further internationalise the South Australian economy, bringing further revenue and prestige to that state.

The introduction into the sector of such a highly regarded international university will increase diversity and choice within the Australian higher education sector, make Australia more globally competitive and part of the global higher education marketplace and attract students from around the world who are seeking a high-quality education experience.

Carnegie Mellon will welcome its first intake of students in March 2006. The students will be a mixture of both Australian and international students, who will be offered postgraduate courses in public policy and management and information technology. It is expected that the university will attract around 50 domestic students in the first year and up to 200 domestic students by 2009.

The amendments contained in the bill will extend limited Australian government assistance to the Australian branch of the Carnegie Mellon University by enabling the university’s eligible Australian students to obtain assistance such as FEE-HELP.

The application by Carnegie Mellon University to operate in Australia as a foreign owned and operated university is the first such application to be received under protocol 2 of the national protocols for higher education approval processes, which have been in existence since 2000.

On 4 July 2005, my South Australian ministerial colleague made a determination under the South Australian Training and Skills Development Act 2003 recognising Carnegie Mellon University as a university for the purposes of that act.

That legislative action made it possible for me, as the responsible Australian government minister, to proceed with this bill so that Carnegie Mellon University can begin operations next year.

This bill also contains a number of amendments to the Higher Education Support Act 2003 to strengthen and better reflect the policy intent of the tuition assurance requirements which all non-table A providers are required to have.
Tuition assurance provides comprehensive and robust consumer protection for students in the event that a provider ceases to offer units in which they were enrolled. The amendments will improve the current protection mechanisms which allow students to choose either a course assurance option of switching to replacement units in a similar course with another provider or a student contribution or tuition fee repayment option of obtaining their money back for uncompleted units.

In addition, the changes will ensure that, where students choose the option of student contribution or tuition fee repayment, their Higher Education Loan Program debt will be remitted and their student learning entitlement and FEE-HELP balances will be recredited. Where students choose the course assurance option, they will not incur any additional cost for those units undertaken with the second provider that replaced units uncompleted with the first provider.

In the case of replacement units, the changes will protect students who are forced to withdraw because of special circumstances and institutions which provide the replacement units without any fee. Students will be able to get a refund without any impost on the second provider and the higher education provider guidelines will set out the basis for this refund.

I commend the bill to the House and present the explanatory memorandum.

Debate (on motion by Mr Bevis) adjourned.

EDUCATION SERVICES FOR OVERSEAS STUDENTS AMENDMENT BILL 2005
First Reading

Bill presented by Dr Nelson, and read a first time.

Second Reading

Dr NELSON (Bradfield—Minister for Education, Science and Training) (9.49 am)—I move:

That this bill be now read a second time.

This bill is fundamentally important to the future of our international education export industry. It highlights the value the Australian government places on protecting our world-class quality assurance and consumer protection arrangements and our commitment to responding to emerging challenges in a globally competitive environment.

The Education Services for Overseas Students Act 2000, the ESOS Act, safeguards the reputation of our onshore industry to ensure that international students receive the education and training for which they have paid. It establishes key elements for the national regulation of international education and training services. It aims to protect the reputation of Australia’s education and training export industry and strengthen public confidence in the student visa program.

These protections have brought worldwide recognition of our quality and innovation in education and training and led to the development of an export sector which holds a pivotal role in Australia’s future.

The bill before the House is a clear expression of the Australian government’s ongoing commitment to investing in Australia’s international education engagement.

The amendments contained in this bill will enable high-quality overseas education providers to establish institutions in Australia and offer education and training services to overseas students.

Specifically, as a consequence of amendments to the Higher Education Support Act 2003, a foreign owned university—in this case, Carnegie Mellon University—will be able to operate as a registered provider of
education services to overseas students in Australia.

The amendment proposed by this bill reflects the Australian government’s commitment to giving students greater choice in where they may choose to pursue their studies. That we were able to attract such an application by a prestigious American university is a recognition not only that the Australian government’s higher education reforms are working but of international confidence in our own quality frameworks.

The other amendment proposed to the ESOS Act reinforces the capacity for registered providers to charge a tuition fee to international students which covers the costs incurred by those providers in meeting their obligations under the ESOS Act and its national code. The amendment recognises the ESOS Act’s aim of strengthening public confidence in the student visa program by ensuring that only genuine students come to Australia. The ESOS Act seeks to ensure international students are appropriately supported in their choice to study in Australia and it requires registered providers to meet a range of obligations to do this.

I commend the bill to the House and present the explanatory memorandum.

Debate (on motion by Mr Bevis) adjourned.

TAX LAWS AMENDMENT (LOSS RECOUPMENT RULES AND OTHER MEASURES) BILL 2005

First Reading

Bill presented by Mr Brough, and read a first time.

Second Reading

Mr BROUGH (Longman—Minister for Revenue and Assistant Treasurer) (9.52 am)—I move:

That this bill be now read a second time.

This bill amends various laws to implement a range of changes and improvements to Australia’s taxation and superannuation system.

Firstly, schedule 1 introduces reforms to the company loss recoupment rules. A company can deduct losses incurred in earlier income years if it satisfies the continuity of ownership test or the same business test. Listed public companies and their wholly-owned subsidiaries can use a modified continuity of ownership test to determine whether they have the same owners.

These amendments extend the range of companies that are eligible to use the modified continuity of ownership test to include all widely held companies and eligible subsidiaries. The amendments will make it easier and more certain for these companies to apply the modified continuity of ownership test by relaxing the rules for tracing ownership under that test and by specifying the times at which these companies will need to test for continuity of ownership. The amendments also make various technical changes to clarify the operation of the continuity of ownership test for all companies.

The changes to the continuity of ownership test will reduce the need for large companies to rely on the same business test to be able to claim deductions for prior year losses. Large companies with diverse businesses have difficulty in satisfying the same business test. Therefore, the amendments will remove the same business test for companies (including consolidated groups) whose total income is more than $100 million.

Schedule 2 replaces the existing foreign dividend account provisions. The changes provide tax relief for conduit foreign income, which generally is foreign income received by a foreign resident through an Australian corporate tax entity. These rules will allow Australian companies that receive foreign
income on which no Australian tax is payable to pay dividends to foreign shareholders that are also free of Australian withholding tax.

This measure will provide foreign investors who structure their foreign investments through Australian entities with more neutral Australian tax outcomes when compared to foreign investors who hold their foreign investments more directly. This will further enhance the ability of Australian entities with foreign investments to compete for foreign capital. It will also improve the attractiveness of Australia as a location for regional holding companies.

These amendments represent the sixth instalment of the government’s reform of Australia’s international tax arrangements.

Schedule 3 denies deductions for expenditure incurred in the furtherance of, or directly in relation to, activities where the taxpayer has been convicted of an offence that is punishable by imprisonment for at least 12 months.

Deductions will be denied for all expenditure where the activities are wholly illegal, such as drug dealing or people smuggling. On the other hand, there will be cases where a taxpayer is conducting a lawful business but is convicted of an illegal activity while carrying on that business. In these cases only the expenditure that is incurred directly or in the furtherance of the illegal activity will be denied. Expenditure that is incurred in undertaking the underlying lawful activity and that would have been incurred regardless of the illegal activity will continue to be deductible. This is because the expenditure cannot be said to further or be directly related to the illegal activity. The expenditure is too remote to the illegal activity.

Schedule 4 will include copyright in a film in the general effective life depreciation of the uniform capital allowances provisions. Under effective life depreciation, taxpayers will have a choice of using the Commissioner of Taxation’s safe harbour effective life determination or self-assess the effective life of their copyright in a film. They will also be able to choose between the diminishing value method and the prime cost method when depreciating their asset.

These amendments will apply to a copyright in a film acquired on or after 1 July 2004.

Schedule 5 provides tax relief, in certain circumstances, for employees who participate in employee share schemes. When an employee is issued new shares or rights as the result of a corporate restructure or 100 per cent takeover, they will now be able to treat their new shares or rights as a continuation of their old shares or rights. This ensures that a taxing point does not arise for employee share scheme participants in the event of a corporate restructure. It also ensures continuity of treatment for capital gains tax purposes. In this manner, the amendments further support the development of employee share schemes and the alignment of employer and employee interests.

Schedule 6 provides relief for employers who may potentially have to make a double payment of superannuation contributions.

Currently, employers who make a late contribution to a superannuation fund may be required to pay this amount again as part of the superannuation guarantee charge payable to the Australian Taxation Office. This charge includes the full amount of any shortfall, even though a contribution relating to the relevant period had subsequently been paid into an employee’s superannuation fund or retirement savings account by the employer.

These amendments will allow late employer superannuation contributions, which have been made for an employee to a super-
annuation provider within a month of the superannuation guarantee due date, to be used to offset the portion of any superannuation guarantee charge that relates to that employee for the quarter. To ensure there continues to be a strong incentive for employers to make superannuation guarantee payments by the due date, late payments will not be tax deductible.

Employee entitlements will not be jeopardised, as employees will still receive their full superannuation shortfall plus interest to compensate them for the late payment.

These amendments will apply to late payments of contributions made on or after 1 January 2006.

Schedule 7 clarifies that mandatory employer contributions under the superannuation guarantee arrangements are payable on wages or salary paid in a quarter following the termination of an employment relationship.

This ensures employees do not lose their superannuation guarantee entitlements as a result of being underpaid during their employment.

Full details of the measures in this bill are contained in the explanatory memorandum.

I commend this bill and present the explanatory memorandum.

Debate (on motion by Mr Bevis) adjourned.

ENERGY EFFICIENCY OPPORTUNITIES BILL 2005

First Reading

Bill presented by Mr Entsch, for Mr Macfarlane, and read a first time.

Second Reading

Mr ENTSC (Leichhardt—Parliamentary Secretary to the Minister for Industry, Tourism and Resources) (9.59 am)—I move:

That this bill be now read a second time.

The purpose of the Energy Efficiency Opportunities Bill 2005 is to establish the mandatory energy efficiency opportunities assessments announced in the government’s energy white paper Securing Australia’s energy future in June 2004.

The bill establishes the Energy Efficiency Opportunities program, outlines the broad obligations imposed on large energy using businesses, and allows for regulation making to provide detailed requirements for assessment, reporting and verification, and other elements of the program.

Energy Efficiency Opportunities will require large energy using businesses to assess the potential to improve their energy efficiency and report publicly on the outcomes.

The energy white paper identified the improvement of Australia’s energy efficiency performance as a key part of the government’s energy policy in order to achieve greater prosperity, sustainability and energy security.

EEO takes its place alongside a range of measures to pursue the benefits of using energy more efficiently—energy market reform, solar cities, improved appliance and building standards and targets for reduced energy use in government agencies.

The broad range of energy efficiency measures announced in the energy white paper has the potential to increase economic welfare and lower the rate of growth in greenhouse emissions. Improved energy efficiency reduces overall demand for energy and will also delay the need for new energy generation equipment. Energy Efficiency Opportunities could deliver as much as $975 million even if only half of them were taken up.

The EEO measure is directed at increasing the uptake of commercially attractive energy
efficiency opportunities in end-use energy in the industrial, resources, transport and commercial sectors. It will be targeted at Australia’s largest energy users—those businesses using more than half a petajoule of energy per year. Half a petajoule would be regarded as a large amount, being equal to the electricity needs of 10,000 Australian households and costing over $5 million.

The energy white paper estimated that up to 250 companies each use more than half a petajoule of energy per year in Australia. Together, these large energy using companies account for 60 per cent of total business energy use in Australia. Improvements in energy use in the business sector will have significant potential to improve Australia’s energy and environmental performance, as well as that of individual firms.

Australia’s energy efficiency is not improving as quickly as that of other countries. The energy white paper recognised that lagging energy efficiency in Australia could be for a number of reasons. These include information failures and organisational barriers, which work against businesses being able to properly identify, assess and implement what would otherwise be privately cost-effective energy efficiency opportunities.

To facilitate the uptake of these opportunities, the government announced in the white paper that it will require large energy users to undertake rigorous and comprehensive assessments of energy efficiency opportunities every five years starting in 2006 but that commercial judgments by firms will determine whether investments are pursued.

The business will then be required to publicly report on the results of these assessments and to include its responses to the opportunities identified in the assessments. The firm will be free to make decisions on the opportunities identified as part of its normal business decision-making processes.

The government is working closely with industry and state and territory agencies to maximise energy savings for minimal additional regulatory burden. Some state and territory governments already require businesses to monitor energy. Some businesses already have systematic energy management in place, undertake energy assessments and report on energy management as part of sustainability reporting.

We will ensure that this measure is flexible enough to enable activities that already
comply with the EEO to be recognised and minimise the burden placed on businesses.

Stakeholders are involved in intensive and continuing consultations to develop the program. This will ensure that businesses are fully informed about their obligations and are confident that the program is practical and designed to fit their business processes.

The government is working with industry and other expertise to build on the best of what works for business in identifying significant energy savings. The government will continue to work closely with industry leaders to develop guidelines, materials, training and support to undertake effective assessments. Recognising and learning from leading companies and their innovative approaches to identifying and implementing energy savings will be an important strategy for achieving a step change in Australian industry’s energy efficiency performance. I present the explanatory memorandum to the bill.

Debate (on motion by Mr Albanese) adjourned.

COMMITTEES

Public Works Committee
Approval of Work

Dr STONE (Murray—Parliamentary Secretary to the Minister for Finance and Administration) (10.07 am)—I move:

That, in accordance with the provisions of the Public Works Committee Act 1969, it is expedient to carry out the following proposed work which was referred to the Parliamentary Standing Committee on Public Works and on which the committee has duly reported to Parliament: Office replacement of the Bureau of Meteorology at Willis Island, Coral Sea, Queensland.

The Bureau of Meteorology proposes to demolish and replace the meteorological office and staff facilities at Willis Island, which is located 250 nautical miles, or approximately 450 kilometres, east of Cairns. The current estimated cost of the construction is $7.691 million, and a further $1.2 million will be needed for re-equipment.

In its report, the Public Works Committee recommended that these works proceed subject to the recommendations of the committee. The bureau accepts and will implement these recommendations. Subject to parliamentary approval, it is planned that work will commence as soon as possible and be completed by the end of the year. I thank the committee for its work, and I commend the motion to the House.

Question agreed to.

Public Works Committee
Reference

Dr STONE (Murray—Parliamentary Secretary to the Minister for Finance and Administration) (10.09 am)—I move:

That, in accordance with the provisions of the Public Works Committee Act 1969, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Fitout of new leased premises for Australian Customs Service at 1010 La Trobe Street, Docklands, Melbourne.

The Australian Customs Service proposes to relocate from its existing Melbourne headquarters building shortly before the end of the current lease, which expires on 31 May 2007. Construction work on the new building, known as the Port 1010 Building, commenced in June this year, and Customs proposes to undertake a fit-out of these new leased premises. The proposed fit-out is estimated to cost $12.5 million, inclusive of GST.

Subject to parliamentary approval, the proposed fit-out and associated installation of services will, to the maximum extent possible, be integrated with the base building construction in order to reduce costs. The building is planned for completion in December 2006, and Customs anticipates occu-
pying the building progressively throughout February and March 2007. I commend the motion to the House.

Question agreed to.

TRADE PRACTICES AMENDMENT (PERSONAL INJURIES AND DEATH) BILL 2004

Second Reading

Debate resumed from 9 December 2004, on motion by Mr Brough:

That this bill be now read a second time.

Mr FITZGIBBON (Hunter) (10.10 am)—Every member of this House will be acutely conscious of the crisis we had in this country a few years ago when community based groups in all of our electorates were struggling to secure the insurance necessary to continue with their very good community work. I certainly had a number of them in my electorate.

I recall one particular group in Singleton raising money for victims of cancer. They had been running a street stall of sorts in Singleton for many years, raising significant funds for that very worthy cause. On this occasion—I think it was two years ago—that street fair was at very great risk. It looked as if it would have to be called off because of course, understandably and responsibly, they were not prepared to go ahead with the street stall without appropriate insurance cover. Thankfully, on that occasion Hunter Health, now Hunter New England Health, came to the rescue and managed to put the fundraising activity under the umbrella of Hunter Health’s insurance cover, so that was a good news story.

But there have been many others I recall, also in my electorate. The Richmond Vale historic railway, which had been doing very good work for many years, had volunteers putting old locomotives back together in wonderful style and providing historic train rides for both locals and tourists. In doing so, they were making a significant contribution to the Hunter’s economy, diversifying our tourism base and doing very good work. That closed down as a result of that organisation’s inability to secure insurance.

I have a very good organisation now operating in my electorate known as the Cessnock Woodturners—an organisation I suspected might have three members, but I was surprised to learn that they have 70 members. These are mainly retired men who are looking to perpetuate their trade and who do so in a very good way. More importantly, this group of men help dementia patients in the local nursing home by giving them hands-on activities, which I understand are very good for them in a medical sense. In addition, they take high school students, largely students with learning difficulties, and they give them something to do that they are really interested in—that is, working with their hands and learning a trade rather than sitting in the classroom struggling with academic work that realistically is never going to be of any real benefit to them.

These are the sorts of organisations which were under threat as a result of their inability to secure insurance cover. Appropriately, the Commonwealth and the states got together and discussed ways of overcoming these significant problems. The states agreed to reform their tort laws to restrict payouts for damages in circumstances where someone has been injured by the actions of a community based group. Effectively, they cut pay-outs so that insurance cover became less expensive.

As a consequence of this, the Commonwealth decided that amendments to the Trade Practices Act would be necessary to prevent people from forum shopping—that is, turning away from the state based tort law and shopping around for a statute that might pro-
vide them with more generous compensation. There was concern that they might look to part V of the Trade Practices Act to secure those more generous compensation payments. The Trade Practices Amendment (Personal Injuries and Death) Bill 2004 is about bringing the Trade Practices Act into line with state based tort law to prevent that forum shopping.

Key provisions of part V, division 1 are included in sections 52 and 53. Section 52 prohibits corporations from engaging in misleading and deceptive conduct, and section 53 prohibits false representations that goods or services are of a particular standard, quality or grade. The government argues that these reforms are necessary to support state and territory tort law reforms which were introduced in response to the rapid increases in public liability insurance. The government has also argued that the removal of the right to seek damages under the Trade Practices Act will not adversely affect consumers because they can still seek damages for negligence under state law.

Labor does have some concerns in this area. We have to be clear: although the national model applied to capping common law damages by statute, this bill seeks to go an extra step and totally removes the cause of action under section 52. It removes the protection in the act against deceptive and misleading conduct. It is a different and more radical statutory model. When this matter was first presented to the parliament, Labor had concerns about this approach and sought to have the matter considered by a Senate committee. The Senate Economics Legislation Committee was presented with a number of scenarios where consumers would have no remedy available to them if the bill were passed in its current form, as actions in negligence would either be unavailable or face very high evidentiary burdens.

Labor’s position is that the bill carries the danger of undermining the culture of care that has developed in Australia since the enactment of the Trade Practices Act and may consequently expose consumers to a greater risk of injury. The Law Council noted the positive effect of the cause of action in the Trade Practices Act. In its evidence to the committee, the Law Council said:

On the whole, I would say that it has led to general improvements and one should be loath to go down a path of in a wholesale way taking out whole areas of action.

In its submission to the original Ipp review, the ACCC strongly opposed amending the Trade Practices Act to remove liability for personal injury. The ACCC’s argument was based principally on literature known as the ‘economics of accidents’. Simply stated, this work suggests that liability for the cost of accidents should be assigned to the party that could most easily and cheaply take the actions needed to minimise the risk of an accident. Some significant points made by the ACCC include the following. Firstly, section 52 of the TPA provides an important incentive for business to behave fairly and to have regard for consumers’ safety. Without the availability of this important remedy, the standard of behaviour that consumers are entitled to expect may break down. This is very significant. Secondly, limiting the scope of part V is economically inefficient in that it forces consumers to incur greater search costs to determine which suppliers are reliable. Thirdly, such a limitation also undermines the competitive process by allowing firms that engage in misleading and deceptive practices to win customers at the expense of those who do not.

Fundamentally there is no reason to excuse companies that engage in misleading and deceptive conduct which causes personal injury or death as a consequence of their action, so the opposition sees that the retention
of the cause of action under section 52 does have merit. However, at this point it is also worth addressing another major consideration in the framing of this bill: the concern about forum shopping. Forum shopping is where a plaintiff or their solicitor, faced with tougher laws, seeks to craft their actions so they fall within the current provisions of the Trade Practices Act and to avoid restrictions imposed under state and territory tort law. Labor does not share this concern about forum shopping.

This is a situation where one can see the phenomenon sometimes labelled as ‘the cult of experts’. Professional trade practices lawyers who are concerned about these issues seek a theoretically ideal outcome from the perspective of the legal practitioner. But Labor’s concern is more practical. We support the rights of persons who have suffered injury and we support the claims of those related to those who have died as a result of misleading and deceptive behaviour. We are reluctant to allow the elimination of the basic rights of persons to legal compensation for such abuses in order to deal with the theoretical concerns of legal experts. We tend to be swayed more by social justice concerns than by the desire for trade practices professionals to eliminate perceived concerns about forum shopping, which seem to have no actual empirical evidence to support them.

The Ipp review, Treasury and the Insurance Council of Australia place much emphasis on the fact that section 52 of the act is a strict liability provision. This means that the intent of a company that misleads and deceives is not relevant in determining liability under the act. They argue that it is easier to bring an action under the TPA as there is no requirement to prove fault as is required in negligence cases. The fact is that section 52 of the Trade Practices Act has been a strict liability provision since 1974. The Law Council stated that, if it were significantly easier to bring an action for personal injury than for negligence under section 52, it would have been used in many more cases. In short, there is no evidence that forum shopping is currently occurring nor that the state and territory reforms make it more likely.

I seek the House’s indulgence to make some comments on the Assistant Treasurer’s second reading speech of 9 December 2004. It appears the minister has made some embarrassing errors in his speech, and they should be noted. On this side of the House, such errors are now so commonplace that we affectionately refer to them as ‘Brough-ups’. Although we keep a ledger of them, it is becoming arduous work as they grow in number. In the second reading speech, and I quote from Hansard, the minister stated:

The bill effectively gives an opportunity to the legal profession to jump from state to federal jurisdictions and, in doing so, circumvent the very purpose of tort law reform.

I think the minister was a little confused. Was he proposing a bill to the House that would have had that effect? His words suggest as much, but that could not, I trust, have been his intention. Rather, he must have meant to say that he believes the current act, not the bill, may lead to forum shopping, as he does not support forum shopping. Of course, even with the correction, the argument fails, as forum shopping is not a real concern in this instance. I invite Minister Brough to correct the ‘Brough-up’ and change his statement in the Hansard.

I began by saying that this bill was developed to address some very real concerns in our community. Those concerns were largely brought on by the collapse of HIH and other matters. They were very real concerns that needed addressing. The states have acted appropriately, and the tort law reforms have proved efficient and have offered relief to
community based groups. Labor are effectively saying that we agree that there is some risk of forum shopping but, again, we do not see any real evidence of that. We will support real and meaningful reforms to address those concerns, but we still fear that this bill goes a step too far.

Mr TUCKEY (O’Connor) (10.23 am)—The Trade Practices Amendment (Personal Injuries and Death) Bill 2004 is one of the final building blocks—to the great credit of state and federal parliaments—in preventing the rush of Australia towards an American litigation system. It is litigation that, in every case, just transfers the costs to someone else.

On a recent trip to America with my wife, she got the flu and it turned into pneumonia. We had to go to an American medical clinic, which, contrary to many of the comments made in this place from time to time, seemed to work very well. Later on at the clinic, I watched local elderly people getting their prescriptions for $10. We paid substantially more than that. The interesting point to me was that the doctor who attended my wife made a virtually immediate and very accurate diagnosis of her condition but was obliged by their system to send her downstairs for an X-ray, which exactly confirmed his diagnosis. Why do they do that in America? Why does the cost have to multiply with pathological tests and every other thing? Because ambulance chasing is a substantial part of the American system and a doctor cannot afford to make a diagnosis based on his own skills without taking every other practical measure to confirm it. They have to do that, and there are huge costs to the general community as a result.

Friedman, an eminent economist, said that there is no such thing as a free lunch. We have this wonderful myth that some people, particularly their legal representatives, are entitled to extract money from the system. That then has to be paid for by everyone else, to the extent—as we discovered in Australia—that our wonderful volunteer and social organisations have virtually had to close down. Not only could they not raise the cost of the cover, if it were available, but the volunteers concerned—people who work for nothing—were not prepared to be put under attack by the ambulance chasers of the legal profession.

Previously, I have drawn to the attention of this House the evidence of a film starring Julia Roberts—I did not bother to see it. She was a heroine of the legal profession who saved a town; I think the character had a southern European type name. She battled and fought for these poor people and saved the community. Her legal firm took $40 million out of that case and she got $3 million. That is some degree of altruism! It was a historic case, and Australia was going down that road. The other day, I saw that a floor once applicable to bar chambers in Sydney sold for $500,000. Why? It is because, since the collapse of ambulance chasing in Australia, no-one can afford to pay the rent. That is a great outcome.

Contrary to these people who stand up and say, ‘These individuals have rights,’ I think it is disgraceful. They turn their ankle—as a woman did in Perth while training some kids in hockey—and get $40,000. Where does that money come from? It comes from the local council. Who funds that? The people do. We have this myth that money materialises and rains down from the sky into the pockets of someone who frequently has not suffered any serious injury and does not need financial assistance. Their medical costs and other matters, even lost employment, are covered by the welfare system of Australia, and that is the right place for it.

In general terms, I am delighted to think that we have cut off another avenue, and by a
most professional process. Four eminent Australians were requested by this government and state governments to look into this. I frequently have a few words of criticism to say about certain state governments, but on this occasion Bob Carr led the way—of course New South Wales had the biggest problem. These eminent Australians—Justice David Ipp, Professor Peter Cane, Associate Professor Donald Sheldon and Mr Ian Macintosh—looked into this problem.

One of their recommendations—recommendation 19—was that the Trade Practices Act be amended to prevent individuals bringing actions for damages for personal injury or death under the misleading and deceptive conduct and other unfair practices provision of part V, division 1. Recommendation 20 recommends that the act be amended to remove the power of the Australian Competition and Consumer Commission—the ACCC—to bring representative actions for damages for a person’s injury or death resulting from contraventions of part V, division 1. In general terms, this legislation responds to that recommendation—a recommendation taken by people in the legal profession to prevent an improper use of legislation designed for quite different purposes. Consequently it has my full endorsement.

DISTINGUISHED VISITORS

The DEPUTY SPEAKER (Mr Jenkins) (10.30 am)—With the indulgence of the honourable member for O’Connor, can I ask the Deputy Clerk to pause the speech clock. Before I leave the chair I acknowledge former Deputy Speaker Garry Nehl in the Speakers Gallery. I note that he has a group with him that is much older than the usual school groups he used to sponsor. I thank the member for O’Connor for that indulgence.

TRADE PRACTICES AMENDMENT (PERSONAL INJURIES AND DEATH) BILL 2004
Second Reading

Debate resumed.

Mr TUCKEY (O’Connor) (10.31 am)—I will add to your remarks; I am very glad to see Garry. We all get withdrawal symptoms from this place, and no doubt he has come back for a bit of a fix!

I will return to my speech in the debate on the Trade Practices Amendment (Personal Injuries and Death) Bill 2004. The whole system, of which I have had some fairly significant words to say already, was quite embarrassing to me. It goes further than just a simple culture of some sections of our community seeing an opportunity for profit and portraying it as not having an effect on the rest of the community. As I said, on this occasion it wiped out hundreds, if not thousands, of our volunteer organisations. A group of pensioners came to me to say that they could no longer afford to operate their support system for other pensioners, simply because of the issues that had arisen with public liability. Small businesses’ premiums jumped from hundreds to thousands of dollars, and for what purpose? In many cases, they had never had a claim.

I find it quite amazing: we read just the other day that apparently there is still a niche market for the ambulance chasers, and that is in the medical profession. Again, we wonder why, all of a sudden, the consultation fee at a GP’s surgery jumped 50 per cent across the board. It did so because these people were suddenly obliged to pay these massive premiums, and, in some areas, they just abandoned it. The reality was that it was supposed to do with negligence. In medical practice, if there is substantial evidence of negligence why can an insurance company settle a claim? The affected parties might, for
instance, have lost a child at birth, so what is the money going to do for them? More particularly, if a case of severe negligence is established, surely using the licensing regime for medical practitioners is the appropriate response. As you would know, Mr Deputy Speaker Lindsay, Queensland has a bit of a discussion going on about that at the moment. If the fellow had not escaped the country, would everybody be saying, ‘Don’t worry about taking his job off him; just let him carry on, as long as everybody gets paid’? What an illogical position, and why, in so many of these circumstances, is money the solution? I have stood in this House and talked about asbestos in that regard.

I can differentiate between ambulance chasing and somebody losing their life through the negligence of an employer or somebody else if they have dependants or a situation of dependency is arising; as I have already said, we have a lot of provisions in our welfare state to address those circumstances. Sometimes I think that maybe there could be less money for that sort of workers compensation situation, and better welfare outcomes. I remember visiting a hospital where there was a training scheme to teach paraplegics to drive. One fellow there was clearly disadvantaged compared with the rest, because he had fallen off the roof of his own house and injured himself. Why is there a difference? Clearly the welfare system had to look after him, and it was a bit inadequate, in my view; everybody else looked pretty good. So why not rely on the welfare system in these cases?

I think the words ‘minimising risk’ were used by the previous speaker, and I wrote ‘cost’. When someone goes and buys something in Australia, the provider of those goods, whether they be a wholesaler, a manufacturer or a primary producer, expects to get paid according to their costs. If, as we now find with the wool industry in severe trouble in Australia, we have OH&S people running around every shearing shed in Australia demanding upgrades for tens of thousands of dollars, which usually results in the farmer selling his entire merino stock and buying some meat variety or South African goats or something, the reality is that the cost must transfer to the woollen jumper; it must transfer along the line. Of course, wool producers do not have the luxury of just adding a few cents or a few dollars, so they go out of business and the cost is then in other people’s jobs.

You cannot get a free lunch. In our society costs get transferred, and consequently this measure is one that is going to cut off another avenue of dumping costs on the ordinary citizens of Australia by the abuse of a piece of legislation never designed to line up with tort law, where the basic opportunity for these actions exists.

There is no doubt about it. Compensation should have strict rules as to what and where, and should only be paid where there is a cash cost. Money does not change such things as pain and suffering. I limp around this place because I tried knocking down trees with a Lamborghini in 1976. If someone had given me $100,000 at the time, my leg would still be just as sore today as it was then. So what has $100,000 got to do with it? I got good medical treatment at the time and I am still here—and I am pleased about that.

This legislation is back for the second time. I appreciate that the opposition seem to have indicated they will not oppose it—although that has become academic. The opposition opposed the bill previously. I wonder who their opposition to the bill was supposed to assist. It certainly would not have assisted the general public. It would not have assisted the volunteer groups of Australia, who were wiped out when Australia became addicted to ambulance chasing. It could only
have assisted those sections of the legal profession who have made ambulance chasing a culture and a career, and that is wrong. It is a silly concept. There are better responses to negligence—be it in the medical profession or in the workplace.

The issue of self-reliance is a factor in all these matters. I made some comments about people still being in New Orleans when there was clear evidence that they should have left, and 90 per cent of the large amount of correspondence I received said, ‘We’re glad someone said it at last.’ A person writing to the *West Australian* newspaper said, ‘Good grief! Is he next going to tell us that we should take some responsibility for ourselves?’ I am saying that now. If you are in a workplace, the first thing you should do is be careful. You have a personal responsibility. Danger is to be found on a crosswalk, notwithstanding that it has been painted on the road and everyone knows the rules. It is little help to you if you take a risk on that crosswalk when a car seems to be approaching at above the speed at which it can stop. It is a good idea to get off the road, because I can tell you what—the car is going to win. Some people think that if you get knocked down on a crosswalk you will get a heap of money. I know what I would prefer.

In other words, as we were taught at school: look to the left and look to the right, whether it is a crosswalk or otherwise. Similarly, when my father taught me to drive, he said: ‘Never, ever anticipate that the other fellow is going to stop. Take care.’ He gave back his licence when he turned 83 because he was involved in a minor accident. I said to him: ‘But the other fellow was wrong,’ and he said, ‘No—I didn’t see him. I have ceased to be a competent driver.’ I make those points because I think they have relevance. People should take responsibility for themselves. That should be the culture in Australia. It certainly used to be.

In regard to actions brought through tort law and the capping of claims, earlier I made remarks about the American medical system. During the period when I was the shadow minister for health I read about the system in America and the huge cost it is to the community. Two American states capped claims—as has now occurred in Australia—and have seen a dramatic reduction in the health costs to their community. Why? Because the medical profession no longer has to do as I explained, and order 25 pathological tests to make sure that the ambulance chasers could not contact people and say there was some negligence. Most of the tests were unnecessary. The medical practitioner had the skills in 999,000 cases out of a million to make a decision without the support of those tests, but the system had created a circumstance where they could not afford not to order the tests. Who ended up bearing those costs? They came out of the pockets of the patients who attend the surgeries, because of the fees charged—or, if the government was involved, they came from the pockets of the taxpayer.

Our health minister reported the other day that the cost to the government of our health system is some $20 billion. That is a lot of money. It does not materialise out of thin air; it has to be contributed through the tax system. We should not add unnecessary cost to that system because a small section of the community sees a profit to be made in circumstances where no financial assistance is really needed.

Mr Kerr (Denison) (10.43 am)—The Trade Practices Amendment (Personal Injuries and Death) Bill 2004 is appalling, it is ill-conceived and it fails to address the substantial issues that this parliament and the community ought to be concerned about. The member for O’Connor has, quite rightly, pointed out some of the anomalies that exist with respect to the way we deal with people
in our community who suffer accident and loss. If we were serious about addressing those matters in a rational and coherent way, we would revisit the proposal first put forward and passed by this parliament in the mid-1970s for the introduction of a national compensation scheme so that there would be no recourse to law and so that any person injured, whether by way of an injury at home or on the roads or at work, would be entitled to their injury being compensated and their medical treatment being provided for.

But we never pursued that course. It is a course that has been pursued in New Zealand and it works effectively. A number of the anomalies that were present in that scheme when it was first introduced have been ironed out. But, essentially, it provides a safety net, which does not benefit the so-called rapacious lawyers, which does enable any person who suffers serious loss by way of physical injury to be properly rehabilitated, and which does make sure that they are not in a position of impecuniosity as a result.

The present system is completely bizarre. It has no rational and coherent underpinning. A person who is injured in the workplace is entitled to compensation under the various state workers compensation regimes. The measure of damages and the treatment regime differ from those that apply should they be injured in a motor vehicle, where there is a compulsory third-party insurer. A person injured in other environments may have the availability of damages should they be able to establish fault under various regimes relating to negligence, but a person who is injured in the home or in some other place where fault cannot be attributed must suffer that consequence without the availability of any assistance, other than the most miserable of support through the provisions that are made for very minimal welfare payments.

This results in an absurd situation whereby a person who has suffered a serious, debilitating injury has many different kinds of measures of damages depending on the circumstances and the place of that loss—whether they are travelling to and from work under a workers compensation regime, whether they are a passenger in a motor vehicle, whether they were injured as part of some voluntary activity which they were undertaking or whether there was some fault. It leads, of course, to people who are seriously injured having to create arguments in relation to fault. Not unsurprisingly, sometimes those are contentious. For example, the instance of a man who dived and became paraplegic by striking his head on a sandbar has often been the subject of discussion in this context, but his injuries were just as debilitating as if they had occurred at work. We do not have a consistent regime and so it lends itself to very proper criticism. An appropriate response for us as parliamentarians is to look to measures which would establish a national compensation scheme and to have a process that is immune from the kinds of differentiation and abuses that are inherent in these very narrowly defined circumstances in which injury is recompensed in some instances but not at all in others.

Former Prime Minister Gough Whitlam says in his reflections on his period in government that his greatest regret was that that particular legislation was not implemented; it was passed by the parliament but not brought into force by proclamation. I share with him that judgment. It was the greatest regret that I have about his period of government. There were other aspects of that government, of course, which made landmark changes—the introduction of universal health insurance and a whole range of other social initiatives which pioneered the kind of Australian community that we have inherited. Most have endured, including the trade practices
The trigger for this legislation is the Ipp report. The Ipp report was commissioned by this government to respond to very legitimate concerns about increasing premiums, particularly in the area of community activities. Let me say bluntly that I believe this was a constructed crisis. Let me say quite bluntly that I believe that the insurance industry knowingly, wilfully, wrongfully and corruptly increased its premiums in relation to community organisations which had no risk profile and many of which had had no claims. As the member for O’Connor pointed out, even in relation to small businesses,
many of those organisations with no claim history whatsoever were struck by premium increases from minimal amounts to very large amounts, putting them on the threshold of going out of business and creating a climate which demanded responses from parliamentarians to actually do something to cap liability.

How did we respond? In a Pavlovian manner. We set up an inquiry whose terms of reference were directed to getting the outcome that the insurance industry was constructing, that it wished to have effected. It was a bit like Alice in Wonderland and the Red Queen: first we will have the verdict; then we will consider the evidence. Let me look at the terms of reference for the Ipp report. The terms of reference for the Ipp report demanded that the judge conduct the inquiry according to the following framework. This is what the terms of reference actually said:

It is desirable to examine a method for the reform of the common law with the objective of limiting liability and quantum of damages arising from personal injury and death.

So the judge was given a directive to report on how that could be achieved rather than examining the wisdom of achieving it. It was a matter of first giving the verdict and then giving the reasons. The reasons would never have sustained the conclusions that were drawn. The reasons for the increased spike in those premiums were self-evident, but no attention was to be directed to them. Instead, the burden would fall on those who had suffered catastrophic or near-catastrophic injury. Their benefits, after they had suffered an injury, would be the subject of capping, and we would remove entitlement for compensation for matters where the injury was of a so-called ‘minor’ nature.

What was the actual impact subsequently? The working through of this has been horrific. There are people whose lives have been shattered but who, because of the method by which the exclusion from an entitlement to pursue damages at common law has been worked out in the various state regimes which have been subjected to the Ipp report through the advocacy of this federal government, cannot even establish an entitlement to compensation.

The member for O’Connor made a point about taking some personal responsibility. Of course we should all take personal responsibility. But he drew attention, for example, to the medical negligence matters that are now the subject of enormous controversy in Queensland. He said that no amount of money was ever going to compensate those people and that the real response was to punish the errant doctor—or supposedly errant doctor; I must give him the benefit of the doubt, although it appears pretty plain that he was ill equipped to undertake the surgical tasks that he was charged with—who is now in the United States.

Let us get real about this process. The criminal punishment of that doctor, if he ever is extradited to Australia, will never restore the health of the patients who went to him in good faith. What are you supposed to do? What is the so-called exercise of personal responsibility? Aren’t you entitled to go to a hospital anywhere in Australia and expect a standard of medical practice by a reasonably competent medical practitioner? Is each of us instead supposed to make some sort of individual assessment about the competence and professional capacity of a person held out by a health service to offer medical services? And if we do suffer liability and injury as a consequence, are we to be held from our full measure of damages, if our lives have been ruined, because of a capping regime which, after a Red Queen piece of investigation whose terms of reference were stacked so as to exclude consideration of the real reason
for the increases in liability, has been put in place in response to an enormously orchestrated campaign by the insurance industry to increase its profit levels back to where it believes they should be.

This is disgraceful legislation. This is offensive to the way in which we as parliamentarians should behave. And it extends outside this House. It extends, sadly, to my state parliamentary colleagues of all party persuasions who have gone along with it.

It is not altogether a case that the Trade Practices regime is at the centre of these particular debates. The liability provisions that we are discussing today are in the consumer protection provisions of the Trade Practices Act. They cover a whole range of matters in which we enable people to recover their full measure of damages if they suffer economic loss. So if you suffer economic loss as a result of a violation of these laws, no matter how great your loss is, if you are affected in business, you can recover all your losses; but if you are a small punter and you lose your leg or you are paraplegic as a result of a violation of these provisions, we are now going to pass a law that says you cannot even use these provisions. What kind of social conscience or framework of justice does this represent? What kind of nonsense?

Wrong as it would be if the sole response had been to pick up the state capping regimes and apply those to the Trade Practices Act, which is another provision that I understand this government is pursuing in bill No. 2, it would not be as offensive as this—which is to exclude the capacity for pursuing remedies where the consequence of the breach is not economic loss but actual physical loss. How absurd.

One of the great advances that we have seen in the laws of negligence, which impute responsibility where fault is attributable to industry, to corporations and to individuals, is that it does lead people to exercise some foresight as to their own behaviour. None of us ever likes being sued, and a regime that attributes these consequences has led to improvements in consumer safety outcomes, in standards of workplace safety, in automobile safety and the like. Removing the strictures, reducing the economic costs to those violations and not paying out the full cost of those things to the people who are injured as a consequence is a violation of that and will lead to increasing indifference to the full cost that a company participating in the market should pay for the consequences of their behaviour. What we have to be careful about is rolling back what has been a method of risk sharing. (Extension of time granted)

In conclusion I return to my initial premise, which is that we ought to get away from the situation where people who suffer catastrophic injury are compensated differentially as a consequence of how and where they are injured and we ought to reintroduce consideration of a simple, national no-fault compensation scheme.

Mr ROBB (Goldstein) (11.04 am)—I rise today to strongly support the passage of the Trade Practices Amendment (Personal Injuries and Death) Bill 2004. The bill seeks to amend the Trade Practices Act 1974. These amendments are based on recommendations made by the Ipp review into the law of negligence. In 2002, in response to rising public liability insurance premiums, which were impacting in a hugely negative way on small businesses, recreational facilities, small clubs and community organisations, the state and the territory governments met together with the federal government to jointly discuss the best response to what the media had dubbed the public liability insurance crisis. There has been a desperate need to restore balance in relation to claims relating to personal injuries, a balance between taking personal re-
sponsibility for our own actions and negligence in the case of accident and loss.

We have just heard what I find to be an extraordinary and unfortunately misguided contribution from the member for Denison. I can only say thank goodness that his state colleagues, the Labor state governments around the country and in the territories, and the federal government, do not agree with him. If the prescription being presented by the member for Denison were followed by the state and federal governments it would have led very quickly to a very serious breakdown of his community, of all our communities. The very fabric of volunteer organisation was being seriously eroded and under serious attack by this insurance crisis.

The member for Denison suggested that it was due largely to spiking insurance premiums that grew out of the HIH and 9/11 incidents. The member for Denison claimed it was a crisis constructed by the insurance industry. This is not so. It is a crisis that grew out of a cultural change that has been taking place within our courts over many years. Where has the member for Denison been over the last 15 or 20 years?

We have had a continuously growing culture of avoiding responsibility for personal actions, aided and abetted by some rapacious lawyers and some compliant courts. This community attitude has, in an insidious way, grown over 15 or 20 years. It has manifested itself in this instance in seriously high insurance premiums being applied to very many organisations that were unable to afford them. Failure to restore balance in this area would have meant the winding up of a very large number of activities that are fundamental to our way of life, because of the exponential impact on the cost of insurance claims and, in turn, on the cost of insurance premiums. Even further, in numerous cases, because of the costs and risks associated with many personal injury claims, insurance companies were starting to make insurance unavailable to many organisations within our community. In other words, small pony clubs, sporting operations and many other activities that are an intrinsic part of our community were being denied insurance—they had to go bare—and in most cases they had to stop their activities. This was a crisis of major proportions. Underpinning this crisis has been a cultural change, with a shift in personal responsibility. Many in the community, wittingly or unwittingly, in an insidious way, have begun to look to blame somebody else for activities or misfortunes that might befall them. In this instance, something has had to be done to get balance and common-sense back into this area of activity.

A panel consisting of the Hon. Justice David Ipp, Professor Peter Cane, Associate Professor Don Sheldon and Mr Ian Macintosh was assembled to look into three things: firstly, the application, effectiveness and operation of the common-law principles of negligence to limit liability arising from personal injuries or death; secondly, a principled option to limit liability and quantum of awards for damages; and, thirdly, options to limit claims for negligence to within three years of the date of the event. In addition, the panel was asked to consider the interaction of the Trade Practices Act 1974 with common-law negligence claims. The review also considered options to amend the Trade Practices Act to prevent individuals from commencing actions with reliance on the Trade Practices Act in order to circumvent changes to the common law passed by the states—and the bill before us today does just that. It is required so that normal action that would be taken through the states—action that people cannot avoid as a result of legislative changes made by the states in relation to caps and other things—cannot be circumvented by using the Trade Practices Act. It is
a complementary piece of legislation to assist in restoring that balance I spoke of earlier. It is these amendments that are the subject of the bill before the House today.

One of the key concerns of the panel was that, following reforms to state and territory tort law, the Trade Practices Act would allow plaintiffs to circumvent the tighter laws of a common-law action in negligence and pursue actions under the Trade Practices Act. If plaintiffs were able to engage in forum shopping, the underlying purpose of the reforms—to rein in damages awards and restore a balance to the public liability insurance crisis—would be undermined. This is an important piece of legislation to stop such forum shopping.

This bill implements recommendations 19 and 20 of the review, which relate particularly to the operation of part V division 1 of the act. Recommendation 19 found that the Trade Practices Act should be amended to prevent individuals from bringing actions for damages for personal injury and death under part V division 1 of the act. It should be noted that personal injury is distinct from other types of injury, such as injury to property. Recommendation 20 advised that the Trade Practices Act should be amended to remove the power of the Australian Competition and Consumer Council to bring representative actions for damages for personal injury and death resulting from contraventions of part V division 1. Part V division 1 of the Trade Practices Act contains consumer protection provisions, such as protection from misleading and deceptive conduct or unfair conduct.

In particular, section 52 of the Trade Practices Act provides that a corporation shall not, in trade or commerce, engage in conduct that is misleading or deceptive or likely to mislead or deceive. Section 82 of the Trade Practices Act provides that a person who suffers loss as a consequence of the contravention of section 52 can recover damages for that loss. Schedule 1 to this bill amends section 82 of the Trade Practices Act by inserting two new subsections. Subsection 82(1AAA) will be amended to prevent a person from taking civil action to recover damages from another person for loss or damage to the extent to which that action would be based on a contravention of part V division 1 and where the loss or damage relates to death or personal injury.

Actions in respect of death or personal injury arising from smoking or tobacco related injuries are exempt from the operation of this section. Subsection 82(1AAB) will amend the ability of plaintiffs to launch an action under the Trade Practices Act for smoking or tobacco related injuries. When this legislation was first introduced, one of the issues raised by members opposite and the opposition and minor parties in the Senate was that this could damage the ability of tobacco litigants to receive damages payouts. This concern has been taken into account and the legislation has been amended to reflect those concerns, while still maintaining the necessary balance in the whole area of insurance.

People pursuing an action under part V division 1 for smoking related injuries are exempt from section 82(1AAA); however, section 82(1AAB) will mean that these actions will now be subject to division 2 and division 7 of part VIB of the act. Division 2 of part VIB of the Trade Practices Act relates to the limitation periods within which someone is able to pursue a claim for damages due to contravention of the act. This section provides that a court will not be able to avoid damages if proceedings are commenced by the plaintiff after the end period of three years after the date of discoverability. As such, a plaintiff in relation to a tobacco or smoking related action for damages will now have three years from the date of discover-
ability—meaning the date from which the personal injury or death was discovered or occurred—to commence legal proceedings. The government feels that this is a reasonable amount of time within which to commence legal proceedings. It should be stressed that the limitation is from the date of discoverability—not the date on which that person started smoking, but the date on which they discovered a smoking related personal injury. Three years is ample time for plaintiffs to commence legal proceedings.

Smoking related claims for damages under part V division 1 will also be limited by division 7 of part VIB in terms of the court’s broad power to grant an injunction under section 80 not being extended to the awarding of damages. The concerns of the opposition in relation to people suffering from smoking or tobacco related personal injuries have been addressed, and the government believes that these measures are fair and reasonable and balance the needs of the plaintiffs with the underlying motivation of the government to restore balance to the awarding of damages.

In addition to section 82 being amended, section 87 will be amended under schedule 1 of this bill. Section 87 confers on the court a wide power to make other orders if the court considers that such other orders will compensate a person who has suffered loss or damage through contravention of parts IV, IVA, IVB, V and VC of the Trade Practices Act. These new subsections will be inserted into section 87.

Subsection 87(1AA) will prevent the court from making an order to compensate a person for loss or damage where that order would be based on a contravention of part V division 1 and where the damages were in compensation for a personal injury or death. Smoking or smoking related personal injuries or deaths are exempted from subsection 87(1AA). Subsection 87(1AB) will amend section 87 to ensure that any orders related to smoking or tobacco related claims for personal injury or death will be subject to a three-year limitation period, as discussed previously. Subsection 87(1AC) will ensure that orders in respect of death or personal injury resulting from smoking or tobacco use will be subject to division 7 part VIB in relation to structured settlements.

Members on the other side of the House have argued that the changes in this bill will create hardship or disadvantage plaintiffs. The government disagrees with this proposition. These changes bring the Trade Practices Act in line with state and territory legislation which is designed to achieve a balance between imposing a reasonable burden upon individuals to take care of themselves and the burden on society to take care of others.

In that respect, the comments by the member for Denison on a national compensation scheme and other schemes ignore the existence of the very comprehensive welfare system that we have in this country, one which is the envy of the rest of the world. We have lots of provisions which complement the thrust of the legislation and the changes that have been moved at the state and federal levels.

The Ipp review felt that in recent times the balance had been tipped too far in favour of society bearing the burden for individuals, with this imbalance leading to the insurance crisis. As I mentioned at the outset, this has been a trend over a long period of time. It is not something that has been the product of an insurance spike because of one or two events this century. It is something that has developed in an insidious way, with people increasingly starting to expect others to assume all responsibility for actions that they might take. This legislation, with the other pieces of legislation passed by the states and territories in relation to negligence, is de-
signed to restore that balance while maintaining the rights of plaintiffs to pursue reasonable damages to compensate for personal injuries or death.

The insurance liability crisis left many small businesses, particularly those in the recreation industry, and many of our volunteer organisations—the fundamental fabric of our communities—unable to pay premiums or denied insurance because of the associated risks. Many were forced to go out of business or to stop or severely constrain their activities. This caused enormous stress within small businesses and many volunteer organisations and caused upset within our communities. In addition to the businesses which suffered, local communities suffered severe hardship as a result of the crisis. Many local communities were forced to cancel longstanding festivals and activities due to an inability to afford public liability insurance or, in fact, due to an inability to gain any insurance or to be offered any insurance in the first instance.

The member for Hunter told stories in the House about his local football clubs and the local school eisteddfod which were forced to end because of the insurance premiums they were being forced to pay. It is absurd that, as a community, we can have school eisteddfods, local football clubs and these sorts of activities circumvented—stopped; prevented—because premiums have grown to such a point. Ambulance chasers who have aided and abetted this sort of insidious cultural change have led to a situation where reasonable insurance is not available. For many community events run by volunteers and provided free of charge this has been devastating.

This legislation achieves the necessary balance and ensures that the hard work undertaken by state and territory governments to reform common-law negligence laws is not undermined or circumvented by the federal Trade Practices Act. These measures should not create undue hardship. People will still have the mechanisms to pursue action for common-law negligence in the courts. They will just no longer be able to use the Trade Practices Act as a backup. I commend these measures to the House.

Mr Hayes (Werriwa) (11.21 am)—For some time community groups, individuals and businesses have all expressed concern about the rising cost of public liability insurance. No doubt many members on both sides of the House have been lobbied at various times about the cost of such insurance to various community based groups that have sought to obtain public liability insurance or, more appropriately, as the member for Hunter pointed out, that have found that it is just not available to them. The problem of public liability insurance premiums is one of the principal reasons that the government has brought the Trade Practices Amendment (Personal Injuries and Death) Bill 2004 before the parliament, but it is also a reason that I find somewhat lacking. The government has brought this bill before us on the basis of arguments that, after some closer analysis, are particularly unconvincing.

The Trade Practices Act has undergone many amendments but remains an important piece of legislation, outlining a number of key consumer protections and governing the activities of companies and some individuals. The provisions of the act allow for: the prohibition of unfair, unconscionable, misleading and deceptive conduct; the right of consumers to purchase goods of acceptable or merchantable quality; consumers injured by defective goods to seek compensation for their injuries; the Commonwealth minister to set product safety and information standards; and the Commonwealth minister to ban supply of unsafe products or to order their recall.
These are significant and important provisions that should not be discarded lightly. The provisions of this bill seek to remove an important provision from the Trade Practices Act. As the Minister for Revenue and Assistant Treasurer correctly noted in his second reading speech, part V division 1 of the Trade Practices Act prohibits, under civil law, unfair practices, including misleading and deceptive conduct, from trade and commerce. Penalties for such actions are provided under part VC division 2 of the act. As the minister noted:

The measures contained in this bill will amend the Trade Practices Act to prevent individuals, and the ACCC in a representative capacity, from bringing civil actions for damages for personal injury or death resulting from contraventions of part V division 1 of the Trade Practices Act.

Obviously such a significant reform to the act poses the question: ‘Why?’ The minister went on to explain:

These reforms are aimed at limiting public liability claims costs in order to reduce pressure on insurance premiums and assist in delivering affordable public liability insurance.

I have no doubt that those groups and individuals who have faced considerable increases in public liability insurance premiums and those who have been unable to obtain public liability insurance at all would welcome any action to reduce the upward pressure on premiums. However, like everything that seeks to sweepingly remove important provisions in legislation, the consequences — perhaps not the immediate ones but certainly the ones in the not too distant future — also need to be taken into account.

It is far too simple to say that the problem will disappear or that a solution will present itself when we simply remove sections from legislation. Often when we try to apply a quick political fix to a situation some unintended consequences are missed. Before we take action to throw the baby out with the bathwater, I think it is time for a closer examination of the issues. There is no doubt that the premiums associated with public liability insurance have been the source of much concern over recent years. We all remember the headlines about the community groups, about the local scouts and about the school fete that could not go ahead because of high public insurance premiums — or because such insurance to underwrite an event in the first place could not be secured.

As the minister has noted, the driver for this legislation is to reduce public liability claim costs and reduce pressure on insurance premiums, in order to assist in delivering affordable public liability insurance. I find it interesting that this remains the driver for this legislation, given the trend in public liability premiums. For example, the New South Wales Chamber of Commerce conducted a survey which indicated that there was a 43 per cent reduction in the number of businesses having difficulty obtaining public liability insurance over the 12 months to July 2003. Another example is that a leading commercial insurer, CGU Insurance Ltd, has cut its commercial liability insurance rates by 10 per cent in New South Wales — and, I assume, in other states. In addition to this, the Australian Competition and Consumer Commission commenced monitoring premium prices in July 2002 to assess whether the insurance industry is reducing public liability and professional indemnity insurance premiums. In January 2005, the ACCC reported that the average public liability insurance premiums had decreased by 15 per cent between 31 December 2003 and 30 June 2004 — a reversal in the pattern of premium increases that was certainly obvious during the period around 2000.

Of course, this evidence is probably not enough for the government, but the government did commission two Commonwealth reports which found that public liability
premiums were down by between four and five per cent in the year to December 2004. When the minister released these reports, he said that the results came about because of the tough action of federal, state and territory governments. Needless to say, the results that the minister took the opportunity to praise make you wonder why the government continues to pursue these amendments. It makes you wonder why, with these amendments, the government is pursuing removing the rights of consumers.

I was looking through the bill and thinking that there must be something else to keep this alive—that maybe there was an industrial relations implication. But, after going through the bill, I find there is not. It seems that this is just another example of the government’s pursuit of bottom standards on so many fronts. That is the likely driver for the continued existence of this bill.

If the evidence of the insurance premiums is not enough for the minister and not enough for the government, maybe they should have a look at the dissenting report of Labor senators of the Senate Economics Legislation Committee. It noted that the justification for the bill—the fact that the Trade Practices Act has the potential to undermine state and territory reforms—was regarded as less than convincing. The Law Council presented evidence to the committee that only nine examples of cases could be found in which people had tried to recover personal injury damages based on part V, division 1. These nine cases were not in the last six months—they were not even in the last 12 months; they were between the years 1989 and 2002. That is, nine cases were found over 13 years. And, of those nine cases, there were a number through which no damages were recovered.

But enough about why this legislation is not needed because of the movement of insurance premiums or the number of actions brought about through the Trade Practices Act. Let us consider exactly what we will be losing under the provisions of this bill. Once the Trade Practices Act is amended it will remove the capacity for individuals, or the ACCC acting on behalf of individuals, to bring civil action under part V of division 1. Granted, while the option to pursue civil action may be removed, government members have been quick to point out that the ability to pursue damages under common law will remain.

We have all seen the difficulty of the individual to pursue things under common law, and that will be particularly so once the government rams through its industrial relations agenda. Those of us on this side of the House know that having an action at common law for most of us is the equivalent of not having a means of appeal at all. An appeal based on the common law for damages for most people is near on impossible. People cannot afford to take long legal actions against major companies through the courts. Even if an individual has a legitimate case, the company they are up against can in most cases economically starve them out of an action through protracted litigation. Oftentimes it is a David and Goliath battle in which David, in this instance, would not stand a fighting chance. To naively rely on the common law to solve problems is an economically inefficient approach. The costs associated with bringing an action would, from a societal perspective, no doubt outweigh any benefit.

The Trade Practices Act has had an important influence on the psyche of Australian business. The provisions of the Trade Practices Act, particularly in part V, division 1, have created what is often referred to as a ‘culture of care’ within the Australian business community. As the Law Council noted in evidence to the Senate Economics Legislation Committee:
One of the consequences of that legislation, I think, has been that it has significantly improved the standards of behaviour that we have seen across the whole corporate world ... in terms of product safety and the actions of corporations in terms of their potential to cause physical harm to individuals, there has been this strong benchmarked potential liability imposed upon them. On the whole, I would say that it has led to general improvements and one should be loath to go down a path of in a wholesale way taking out whole areas of action.

This is an important piece of evidence that the government and the minister have clearly ignored. Product safety is important to consumers. Consumers have rightly developed through time an expectation that they will be able to purchase products that are safe and, after taking into account the marketing hype, will, to a greater or lesser degree, do what they are supposed to do.

It is also interesting that both the minister and the government have managed to ignore other evidence to the Senate committee. They have ignored the fact that, even though a number of groups expressed opposition to the bill, they expressed some support for alternative arrangements. The government has managed to ignore the fact that the proposals had a common theme in that the parties thought that the Trade Practices Act could be amended so that damages for breaching part V, division 1 could be bought into line with state and territory laws. That being achievable, the justification for this bill would be very weak.

I find it difficult to believe that nine cases over 13 years—a number of which were, as I indicated earlier, unsuccessful—have driven up insurance premiums and will cause people to jurisdiction shop. I have no doubt that rational individuals, if they think they have a better chance or have a chance at achieving greater damages, will exploit the rules in any situation, be it through the Trade Practices Act or any other means. If nine cases in 13 years is the most that the Law Council could find in terms of the use of these provisions of the Trade Practices Act, it is probably a measure of the success of the act.

As I noted earlier, the fact that these provisions exist and that actions can be taken against companies for misleading or deceptive conduct that results in injury or death has created a culture of care amongst manufacturers and suppliers. The fact that legislation exists in which a means is created for consumers to seek redress and that legislation exists that creates a potential liability, be it implied or otherwise, has certainly held producers to a higher standard. The numbers tell the story. Nine cases over 13 years is a measure of the success of these provisions, not a justification for their removal. The number of cases and the amount of damages should be judged, quite frankly, as the effectiveness of this piece of Commonwealth law. A small number of successful cases being actioned under the provisions of the Trade Practices Act are a measure of the strength of the law, a measure of its success, not the justification for its dilution. They are a measure of the seriousness with which producers take the act and a measure of the discipline that is imposed throughout the corporate world.

In this case, Labor’s proposals should be adopted. Under the proposals of the opposition, the important protections that have existed for some time would remain, the protections described by the Law Council as having ‘significantly improved the standards of behaviour that we have seen across the whole corporate world’ would remain, the protections about which the Law Council also noted that they would be ‘loath to go down a path of in a wholesale way taking out whole areas of action’ would remain, the ability for David to take on Goliath in something that looks like a fair fight would remain.
The opposition’s amendments are simple. They will retain the longstanding consumer protections under part V, division 1. They retain the essence of the rigour that is imposed on companies, implied or otherwise, under the Trade Practices Act. The culture of care that has emerged as a result of these provisions will remain. The discipline that companies have imposed on themselves because of the consequences of having the Trade Practice Act in existence will also steadfastly remain, because there is no escape clause. However, as we pointed out, the bill could be constructively amended to minimise jurisdiction shopping by aligning the damages for breaches of the act where that would be consistent with those within the state or territory jurisdictions.

But there is no way of dismissing the genuine concerns of people in relation to death or serious injury by saying that the only recourse they have is by applying the rigours of the common law. This government may be in a race for bottom standards when it comes to the conditions of working Australians, particularly in relation to the industrial relations agenda. It may be willing to throw everything away in an effort to outbid everyone else in a quest for the cheapest, but there are some protections that should remain and the provisions of the Trade Practices Act, quite frankly, are one of them. I cannot support the removal from this act of the capacity of individuals, and the ACCC in representing individuals, to obtain redress through civil claims. I do not believe the evidence supports it, and I do not believe that the public wants it.

Mrs VALE (Hughes) (11.41 am)—I appreciate the opportunity to speak on the Trade Practices Amendment (Personal Injuries and Death) Bill 2004, which will implement the remaining recommendations from the Ipp report of the review of the law of negligence and complete the government’s tort law reforms. The purpose of this bill is to amend the Trade Practices Act 1974 to implement review recommendations 19 and 20.

Recommendation 19 is that the Trade Practices Act be amended to prevent individuals bringing actions for damages for personal injury and death under the misleading and deceptive conduct and other unfair practice provisions of part V, division 1 of the Trade Practices Act 1974. Recommendation 20 is that the act be amended to remove the power of the Australian Competition and Consumer Commission, the ACCC, to bring representative actions for damages for personal injury and death resulting from contravention of part V, division 1 of the act. Other legislation has already been used to implement other recommendations from the review. The Trade Practices Amendment (Personal Injuries and Death) Bill (No. 2) 2004 had the purpose of amending the Trade Practices Act 1974 to implement recommendations 17 and 21 of the review of the law of negligence final report.

By way of background, most of us will be aware of the insurance crisis in Australia that was characterised by rising premiums and unavailability of cover. It reached crisis point in 2001 following the collapse of HIH Insurance. On 30 May 2002, a ministerial meeting on public liability comprising ministers of the Commonwealth, state and territory governments jointly agreed to appoint a panel of experts to examine and review the law of negligence, including its interaction with the Trade Practices Act. This was the second ministerial meeting held to discuss public concerns about the cost and availability of public liability insurance. Afterwards it was stated that the unpredictability of the interpretation of the law of negligence was a factor driving up insurance premiums.

Within this broad context, the terms of reference for the review of the law of negli-
gence in Australia, which was chaired by the Hon. Justice David Ipp, stated that the award of damages for personal injury had become unaffordable and unsustainable as the principal source of compensation for those injured through the fault of another. It was therefore desirable to examine a method for the reform of the common law, with the objective of limiting liability and the quantity of damages arising from personal injury and death.

The terms of reference and the breadth and range of the responses the review panel received in submissions and consultations indicated that there was a widely held view in the Australian community that there were problems with the law, which stemmed from perceptions that, firstly, the law of negligence as it is applied in the courts is unclear and unpredictable; secondly, in recent times it had become too easy for plaintiffs in personal injury cases to establish liability for negligence on the part of defendants; and, thirdly, damages awarded in personal injuries cases were frequently considered to be far too high.

The expert review panel made 61 recommendations that were largely targeted at reforming personal injury laws at the state and territory levels. I understand that New South Wales has amended its consumer protection legislation that replicates part V, division 1 to implement recommendation 19 of the Ipp report. Other jurisdictions, for example South Australia and Queensland, were also looking to implement this recommendation and indicated they were waiting for the Commonwealth to pass the amendment to this bill before proceeding with their own amendments.

The Ipp report also recommended that changes be made to the Trade Practices Act so that the reforms to negligence laws that make it harder for a person to claim damages in negligence would not be undermined by a plaintiff bringing a legal proceeding under the Commonwealth trade practices legislation. The options available, including maintaining the status quo, would not achieve national consistency on this matter. Further, it could undermine state and territory civil liability reform by providing an alternative right of action to claim damages for personal injuries or death. This is the point that answers the comments of the member for Werriwa a little earlier.

The only feasible option available to achieve the government’s objectives is to amend the Trade Practices Act in accordance with Ipp review recommendations 19 and 20—that is, to prevent individuals and the ACCC in a representative capacity from bringing an action for damages for personal injuries or death resulting from contraventions of division 1 of part V of the Trade Practices Act. Other orders and remedies under the Trade Practices Act for conduct in contravention of division 1 of part V that involves personal injuries or death will continue to be available.

The benefits for business include an increased certainty for the business sector, including small businesses as a potential source of claims. Related costs arising from personal injury and death claims will be removed. The removal of potential rights of action will also create increased certainty for insurers in the assessment of the risk and the calculation of insurance premiums. It will also reduce insurers’ legal costs in that they will no longer be required to defend alternative rights of action brought under division 1 of part V of the trade practices legislation.

A PricewaterhouseCoopers report indicated that the Ipp review recommendations 19 and 20 are essentially administrative in nature and cannot be said to have a direct financial effect. However, the PricewaterhouseCoopers report did not assess the cost
to business or the community if the Ipp review recommendations were not implemented and state and territory civil liability reforms were undermined. Allowing the Trade Practices Act to undermine state and territory reforms may impose an indirect but substantial financial cost in that it would prevent the benefits of state and territory civil liability reforms from being achieved.

The principal benefit to businesses of these reforms is to assist in delivering affordable public liability insurance by reducing pressure on insurance premiums. The PricewaterhouseCoopers report estimates the benefit of the implementation of the review’s recommendations for rules on quantum of damages to be a reduction in the cost of public liability claims by 14.7 per cent. This comprises an approximate 19.6 per cent reduction in personal injury claims cost, with no reduction in property damage claim cost. All things being equal, the Pricewaterhouse-Coopers report estimated that these reductions in claims costs may translate into a corresponding reduction in insurance premiums of 13.5 per cent, on average, subject to a number of factors, including the adequacy of current premiums and the prospects of windfall gains.

The PricewaterhouseCoopers report notes that these findings are very uncertain and are relative to the pre 30 June 2001 public liability environment. They also rely on jurisdictions adopting all the Ipp review recommendations at the same time. While such an outcome is unlikely, adoption of the recommendations by a majority of the larger states would be expected to deliver significant savings, and it is pleasing that New South Wales has quickly moved to introduce amendments consistent with the Ipp review’s recommendations on the quantum of damages. The benefits to the community are ensured by measures that provide that division I of part V does not undermine state and territory civil liability reforms so the full benefits of those reforms can be achieved. These reforms are intended to reduce pressure on insurers to increase insurance premiums and to ensure that adequate insurance protection is still available for consumers.

When this bill was previously introduced by the government, it was opposed both by the Australian Labor Party and the Australian Democrats in the Senate. However, this bill is required because reforms have already been undertaken by some state and territory governments to help contain the cost of liability claims and to make liability insurance more affordable and available. Commonwealth, state and territory ministers agreed on a package of reforms that implements key recommendations of the Ipp review of the law of negligence at the November 2002 ministerial meeting on public liability insurance. Ministers agreed that the key Ipp review recommendations that go to establishing liability should be implemented on a nationally consistent basis and that each jurisdiction agree to introducing the necessary legislation as a matter of policy priority.

At the November 2002 ministerial meeting, the Commonwealth also confirmed that it would amend the Trade Practices Act 1974 to support the states’ reforms so nationally consistent reforms are achieved in all areas of Australia. In areas where national consistency cannot be achieved, ministers agreed to examine options for amending the Trade Practices Act to ensure that state and territory legislation would not be compromised. These are long-awaited amendments that will benefit Australian businesses and Australian consumers. I commend the bill to the House.

Mr HATTON (Blaxland) (11.52 am)—The Trade Practices Amendment (Personal Injuries and Death) Bill 2004 is a sledgehammer to crack a walnut. It is misplaced and should not have been brought back into
this place in the form that it is in. The Labor Party will be moving amendments in the Senate, as we did previously with regard to this bill. The bill seeks to introduce an inappropriate change to part V of the Trade Practices Act. It will limit the act so that consumers and their advocates, in relation to the ACCC, will be forbidden from taking action for the recovery of damages in areas where they have traditionally been able to.

We have just heard the member for Hughes and others argue the case as to what the Commonwealth has done. They have said that here is a really persuasive case where, in the face of a public liability firestorm across Australia, the Commonwealth is working in tandem with its state and territory colleagues in a ministerial council to address this problem. The Commonwealth’s part, based on the Ipp review, is to take this substantial measure—it is only minor, but it is still substantial—to help fix the problem of civil liability across Australia. It is what the states and territories want. It will fix the situation with regard to negligence and it will bolster what the states have already done with regard to tort claims.

If that were fully the case, if the government really did seek to fix that in a substantial manner, then the ACCC would not have given the evidence that it did to the Ipp review; and the Australian Labor Party, in determining its view, would not have taken into consideration the substantial case put forward by the ACCC that it should be, as it has been in the past, the champion of consumer groups with broad claims. With regard to the tobacco industry, I note that in the explanatory memorandum and the minister’s second reading speech it says that the provisions on claims resulting from tobacco injury will be maintained, provided that they are done within the three-year window.

This bill takes away an entire class of actions under the trade practices law, to fix the possibility—not the actuality—that there could be forum shopping. There has been a strong tightening of tort law, particularly in New South Wales under Minister John Della Bosca and in Victoria—two Labor jurisdictions. All state and territory governments, community groups and local councils have been faced with the problem of a dramatic increase in the cost of premiums. Why was that? Was it because there was forum shopping between state jurisdictions and the Commonwealth with regard to section 52, part V of the Trade Practices Act? Was there already a significant case of forum shopping? The answer is no. Was it prospectively likely that there would be a great deal of forum shopping? The answer is no. Was there a significant problem with the fundamentals of tort law in the states and the question of negligence? I do not think that that was fundamentally the case either.

We saw the destruction of one of Australia’s great companies, HIH. The insurance industry, or at least the part that took the vast majority of public liability insurance onto its shoulders, imploded in front of our very eyes. We have seen the outcome of that. Two people who were significantly involved in that company were jailed and, previously, under Larry Adler, FAI Insurance was folded into HIH. That implosion and its effects led to the public liability crisis and the March 2002 and November 2002 reviews. At the time, Minister Coonan was responsible for this area. In the explanatory memorandum to the bill, and canvassed in part in the Bills Digest, it says that this position was entirely agreed to between the state jurisdictions and the Commonwealth, this was the way to fix it and this was a major thing being done.

Last year there were some other measures incorporated into the Trade Practices Act. Those amendments were generally sup-
ported. Those measures did not go to proscribing the ability of the ACCC or other parties to use part V of the Trade Practices Act to act on behalf and in the interests of consumers. The measures went to establishing—as the states and territories have done—a capping regime. Faced with the implosion of HIH, the problem of reinsurers, the rocketing price of public liability, community groups being unable to pay those premiums and no-one having a ready answer to that, the state jurisdictions and the territories said: ‘We have to answer this in some way. Probably the best thing we can do in the face of this explosion is to place a cap on it.’ So, in the face of some serious opposition and questioning about taking away the rights of individuals to pursue damages claims for injury or death and about individuals being harshly dealt with in that circumstance, Premier Carr and Minister Della Bosca said it was important, in the communal interest, to cap the amount of benefits.

In the case of New South Wales, Minister Della Bosca underlined—at a Labor conference, from memory—what he was doing, arguing that someone who suffers serious injury is faced with a lifetime of medical expenses and significant problems. In the past, what has generally happened is that millions of dollars were given to people to ensure that they were properly looked after. Minister Della Bosca said that what was most important was to ensure that they would be looked after for the rest of their lives. So other measures could be taken, rather than a monetary reward, apart from the capping of those payouts—the public hospital system in New South Wales and the facilities open to government could be used to provide for people in those circumstances. They were the key issues driving the question of payouts in tort cases and in the area of negligence. There have been a series of those involving a number of councils in New South Wales.

The difficulty that state governments faced was over a broader area. Firstly, they chose to cap, which the federal government did with this act last year by putting in a capping regime. Secondly, they said, ‘We need to tidy up this area of the law and, where possible, make sure that there is a commonality across the Commonwealth.’ I do not gainsay that; that is an important thing to do, but the case from the government has rested on the utility of doing that and the argument that this change will in fact fix things. The Ipp review has been mentioned time and time again. The power of the ACCC, in its capacity to act under section 52 of the act, has been called into question and would be completely curtailed if the government’s measure goes through. This is what the ACCC had to argue. It said:

Section 52 of the TPA provides an important incentive for businesses to behave fairly and have regard for consumers’ safety. Without the availability of this important remedy, the standard of behaviour that consumers are entitled to expect may break down.

limiting the scope of Part V is economically inefficient in that it forces consumers to incur greater search costs to determine which suppliers are reliable.

such a limitation also undermines the competitive process by allowing firms that engage in misleading and deceptive practices to win customers at the expense of those that do not.

With regard to the whole question of whether or not it was possible, given the fact that people would face problems with the changes that have happened in state jurisdictions and therefore would look for a way to get out of it federally, the ACCC said that the argument has been put forward that it would be very easy for people to do this. You are not dealing with strict liability, so it is argued that it is simpler for people to launch an ac-
tion under this. Therefore, the government is putting the argument that, in closing off those avenues, it is likely that lawyers or others will discover a way to pursue this under the Trade Practices Act. The Ipp review and the Treasury picked that up, and the Insurance Council of Australia laid a fair amount of emphasis on that in giving evidence to the Senate committee.

But the Law Council of Australia stated—and I think they would be reasonably well briefed in this area—that, if it were significantly easier to bring an action under section 52 for personal injury than on negligence, then it would have been used in many more cases. I counsel the government to take a look at what the Law Council had to say in this regard, at the effect they expect this provision to have and the narrowing of the current provisions of the act. The government should also look at Labor’s amendments in the Senate with a more careful eye. I will quote the Law Council in full because it bears quoting. The Law Council said:

The elements of common law negligence, in terms of duty of care and breach of duty and causation of the damage, are different from the notion of loss occasioned by false and misleading conduct, but just because they are different does not mean that, in terms of the Trade Practices Act, somehow it is easier or simpler or that there is no fault or wrong involved. It is based on false and misleading conduct, and that itself has to be established. If somehow that was an easier way of making claims, we would have the balance of claims being made under the Trade Practices Act. That is simply not happening. The changes in the state law are not of a nature that will drive people to the Trade Practices Act, in our view, because the substantive facts of what has to have occurred and the circumstances in which it has to have occurred are quite different.

That is, if you think this is really based on forum shopping, you should think again, because there is a wide area that is currently covered to protect consumers at large that I think needs to be retained. So part V, division 1 of the TPA has that important role, and what Labor is saying is that that should be reinforced.

Personal injury and death can strike in all families and in all places. With regard to this, the Commonwealth—as I have covered so far with regard to the narrowing of what is available in the Trade Practices Act, and being in conjunction with what happens at the state and territory level—leaves out a significant part of the question. You would have to ask, in terms of public liability and its coverage and how to solve the problem we have been faced with, whether or not the Commonwealth has done the job. I also make the point that, in terms of negligence and common-law remedies, the Commonwealth is saying that it wants to cut out the avenue where individuals or others—represented, for instance, by the ACCC—could seek to use this to find some other way to seek large damages with regard to personal injury or death.

I know from practical experience just how difficult it can be for relatively powerless individuals taking a case at common law to get a reasonable result out of those entities. I know how difficult it was to do that in 1966 and in 1972. There may be a result and there may be no necessary justice in the common law, because the fundamentals of individual cases are based on what people do and what people say in evidence. I have some significant concern in relation to that, because I have personal experience.

My father worked for Auburn County Council. He was a driver who had many years of experience. But at the age of 43, after a double hernia operation, on a very wet weekend when he should have been at home in bed he spent the entire weekend on call-out. At nine o’clock on Monday morning my father was electrocuted. His long-term part-
ner, his linesman, was on long service leave. There was a qualified linesman there but he did not go up the pole. He asked my father to go up the pole because he was not experienced. My father did so, in contravention of the perception of what should be done. The actual practice of Auburn County Council was what the drivers did.

My father was extremely competent—far more competent than me in manual tasks. Despite the fact that the guy on the ground was qualified, phases A, B, C and D were open and this bloke turned off the wrong phases. My father was electrocuted instantaneously. I found out two hours afterwards, when Father McCarthy came to the school and took us home to see my mother.

Because my mother had worked all of her life, and because the Auburn County Council took the view that it would pursue the case at common law as vigorously as possible, the case took five years to get to court. My mother received not one penny—not one cent—for 12 months. After that, she received the grand sum of $18 a week to support her four sons who were not over the age of 18. My older brother Kerry was. In the fifth year the matter was taken to court in one of the most bitterly contested cases that had been seen at common law. It cost $3,000 for the barrister. Because my mother worked, she was penalised. The total value of my father’s life, all up, was held to be $22,500. If my father had lived to the age of 65, he would have earned $500,000, in 1971 terms. That payout included, from my memory, a sum of $12,600 that was the ‘value’ of my father’s life. I can tell the House that the value to me, to my mother and to my family of my father’s life was much greater than that. To this very day I have dreams that my father is still alive and with us—or that he has gone away somewhere else, that there is a reason for him not being here. I was 15 years of age at the time.

No-one who is at the other end of a case like this should think of it in terms of the cases spread across Australia’s newspapers, where millions of dollars are paid out to people with major injuries. None of them could suffer more than we did, who suffered the damage, injury and hurt of the loss of a father who loved us and whom we truly loved. My father was generous to a fault. He had the love of the people whom he worked with and of his friends. No compensation can make amends for such a loss. But what bitterly hurt me was the fact that absolutely every one of the witnesses who went to that common-law case—all of those people who worked with him in the Auburn County Council for years—lied through their back teeth to protect their jobs. Only one person stood up in the court and said, ‘Yes, it is true. Drivers go up the poles and they do the work of linesmen.’

The size of the payout for the value of my father’s life meant that my mother had to struggle to bring up five sons, effectively on her own, without much help from the community at large. We did not expect, I certainly did not expect and I do not think there should have been, a massive payout in our case. But there are cases that have to be dealt with at common law, and the common-law caps that the state governments have put on—coming from another area altogether, public liability—affect real people. They are not just Daily Telegraph headlines. There should be an actionable cause that can be launched under part V of the Trade Practices Act where there has been wilfully misleading conduct on the part of Australian companies. This government should not knock that on the head in the misguided belief that it is doing something to fix up the problem with public liability.

This government should also not be proscribing—as the state governments should not be proscribing, in trying to deal with the
public liability firestorm—the individual rights of common and ordinary people. Those who suffer personal injury, or families who are assailed by the death of their loved one and breadwinner—in my case my father—should not be deprived of their rights at law, because it is the only redress they have. In my family’s case, that redress at law was not met in a fully just way because human beings decided to lie to protect their jobs and their backs and to deny the actuality.

So the law itself will not entirely fix this, and it will not entirely fix the problems of public liability insurance. It is from the hearts of human beings and their actions that we need to seek redress. I think it is reasonable that there is a capping of damages, but the very heart of tort and negligence should not be torn out as an easy way out for the Commonwealth government.

Mr Turnbull (Wentworth) (12.12 pm)—The very powerful and touching recollection by the member for Blaxland of the death of his father moved everyone in the House. I compliment him for having the courage to talk about that in the way that he did. All of us have fathers. Some of us know them better than others and some of us, like the member for Blaxland and I, have lost them in violent accidents. It is good that we speak from the heart. Perhaps we should do so more often.

In March 2002, the Commonwealth, state and territory ministers, together with the President of the Australian Local Government Association, met to discuss the problems of rising insurance premiums and the reduced availability of public liability insurance. The ministers agreed that a program of tort law reform was required to address the rising cost of claims, an increase which had been driven by changes in the courts’ views of what constituted negligence and was thus an effective expansion of liability and of the appropriate compensation for personal injuries claims, and thus an increase in the damages likely to be awarded.

These changes had the consequence of rendering past provisioning by insurers inadequate. The meeting requested that the Council of Australian Governments at its meeting on 5 April 2002 endorse their approach to tackle the challenge of tort law reform. Senator Helen Coonan, then the Minister for Revenue and Assistant Treasurer, announced the review of the law of negligence on 2 July 2002 to be conducted by a panel chaired by the Western Australian judge, the Hon. David Ipp.

The background to that review, as described in the report, was that there was a wide community perception that the law of negligence as applied in the courts was unclear and unpredictable, that in recent times it had become too easy for plaintiffs in personal injury cases to establish liability for negligence on the part of defendants, and that damages awards in personal injuries cases were frequently too high.

The Ipp review was given a very clear objective in the terms of reference to look at methods that limit ‘liability and quantum of damages arising from personal injury and death’. That was the brief that the governments of Australia gave Mr Justice Ipp. There is no doubt that there had been some baroque developments in the law.

All of us are familiar with the case of Kevin Presland, which was fortunately reversed on appeal. This was a gentleman who presented to the John Hunter Hospital with a self-inflicted head injury. He was later referred as a voluntary mental patient to the James Fletcher Hospital. He was released and then went home with his brother. He became psychotic and attacked his brother’s fiancée, violently murdering her. He was
found not guilty by reason of that mental illness. He then sued the Hunter Area Health Service, claiming they had a duty to detain him under the mental health act, and that by releasing him they should compensate him for the pain and suffering occasioned by his murdering his brother’s fiancee and his incarceration. The court agreed and awarded him $225,000 for pain and suffering and another $85,000 for lost earnings. It was an extraordinary decision which met with public outrage. It was reversed on appeal.

Another decision which gave this area of the law a particularly bad name, which was confirmed in the High Court of Australia, was Cattanach v Melchior. The High Court gave $105,000 in damages to a woman who had had a sterilisation, but had then conceived and given birth to a baby who was healthy and, as far as we know, a very well loved baby. The woman sued the doctor who had performed the sterilisation operation. It is an extraordinary case where the law saw a child not as a blessing but as an injury to the parents.

These are examples that hit the headlines, but there has been no question; all of us understand that the tort system had got out of control. The Ipp panel noted that legal and administrative costs represented 40 per cent of the total costs of the personal injuries compensation system. A key element in the Ipp panel’s approach was that reform should be principle based—that is to say that the changes in the law should encompass ‘general rules governing as many types of cases and as many categories of potential defendants as is reasonably possible’. The reason for that, of course, is that, if the liability or damages rules differed from one cause of action to another, a plaintiff could choose to sue in contract rather than in tort or, as is particularly pertinent to this bill, under the Trade Practices Act. The necessity of ensuring that the same rules applied to claims under tort, contract or statute became recommendation 2 of the Ipp report.

The Ipp panel had only a few months to deliberate and it sought to effectively restate the common law but in terms of principles that were more conducive to the stated objective in the terms of reference of ‘limiting liability and quantum of damages arising from personal injury or death’. At common law the standard of care depended on whether a risk was foreseeable. The Australian case law—Wyong Shire v Shirt—had concluded that a risk was foreseeable as long as it was not ‘far fetched or fanciful’. Ipp recommended, for example, that only risks held to be ‘not insignificant’ should be regarded as being foreseeable. This has now been incorporated in the law in the various states and territories.

A key recommendation in terms of medical negligence was, in effect, the reintroduction of the Bolam test, a UK principle, which held that a doctor could not be held to have acted negligently if what he or she did was consistent with a practice regarded as proper at the time by a responsible body of professional opinion. This protection had been rejected by the High Court of Australia in Rosenberg v Percival in 2001 where the court had held that the practice of the profession was relevant but not conclusive. Ipp recommended, therefore, that a medical practitioner would not be held to be negligent if the treatment provided was in accordance with an opinion widely held by a significant number of respected practitioners in the field, unless the court considered that the opinion was irrational.

Another key recommendation in terms of public liability was that providers of recreational activities should not be liable for the materialisation of an obvious risk. This recommendation was no doubt inspired by the cases where swimmers injured at surfing
beaches by being dumped in the surf on a sandbar had successfully sued their local councils.

The Ipp reforms were conceived very rapidly and they have also been implemented rapidly as well by the various states and territories. They have had the effect of significantly limiting the amount of compensation that can be claimed by injured persons—damages have been capped, discount rates increased, limitation periods reduced. It has been a remarkable, perhaps unique, period of law reform and it has not been without its critics. The Ipp report noted that, if the reforms to the law of negligence which it recommended were successful, lawyers would inevitably look for other different causes of action on which to base their claims.

Ipp concluded that it was not necessary to prohibit claims for personal injury and death being brought under part IV A of the Trade Practices Act, which deals with unconscionable conduct, principally because liability under that part requires the plaintiff to establish fault on the part of the defendant—as distinguished from part V where liability is strict. Accordingly, Ipp recommended simply that the Trade Practices Act be amended so that the rules relating to limitation of actions and quantum of damages to apply to negligence in the common law apply to claims brought under part IVA for unconscionable conduct.

Part V of the Trade Practices Act contains section 52—a distinct difference from part IVA—which imposes a liability for misleading or deceptive conduct without any need to establish fault. A plaintiff suing under section 52 simply has to prove that a statement was mistaken. Indeed, a defendant who has conducted himself or herself with the most scrupulous honesty and care can nonetheless be liable.

Given the strict liability nature of part V, the Ipp report’s recommendation 19 was that the act be amended to prevent individuals bringing actions for damages for personal injury and death under part V, division 1, and its recommendation 20 was that the ACCC’s power to bring representative actions for damages for personal injury and death be similarly prohibited. These two recommendations are, in effect, the subject matter of this bill.

The Ipp panel was of the view—correctly, I believe—that the Trade Practices Act was never intended to provide a vehicle for bringing claims relating to personal injuries or death. Of course, in the absence of this bill there is a risk that, as plaintiffs gravitate to the Trade Practice Act as a better forum in which to bring personal injuries claims, the entire purpose of the Ipp reforms could be defeated. For example, the Ipp reforms clarify the law of medical negligence, linking the required standard of care, as I mentioned a moment ago, to an opinion widely held by a significant number of practitioners in the field. A plaintiff suing under section 52 would simply have to establish that the advice given by a hospital turns out to have been mistaken. There would be no need to prove any kind of negligence.

The government’s approach to the Trade Practices Act, therefore, in the light of Ipp’s recommendations, was to implement recommendations 19 and 20, which prohibited personal injury and death claims pursuant to part V, division 1. This bill was first presented in 2003 and was rejected by the Senate, the Labor Party and the Democrats, who contended that a person should be able to recover damages for personal injury or death under part V, division 1, of the Trade Practices Act, subject to a cap.

As far as the other parts of the Trade Practices Act, the subject of the Ipp report, are
concerned, the panel’s recommendation was that the rules relating to limitation of actions and quantum of damages recommended for the law of negligence should apply to those parts. These recommendations, recommendations 17 and 21, applied therefore, as I have said, to the unconscionable conduct provisions, part IVA, and the product safety provisions, part V, divisions 1A and 2A, and part VA. In a nutshell, these changes served to reduce, substantially, the quantum of damages that can be recovered and halved the limitation period to three years.

This approach of harmonisation—as opposed to that of prohibition, which is the approach taken in this bill—was contained in the Trade Practices Amendment (Personal Injuries and Death) Act (No. 2) 2004. This bill does not, however, operate as a complete bar to the use of part V, division I, for death or personal injury. It provides, in subsection 82 (1AAB), that actions in respect of the death of or personal injury to a person resulting from smoking or other use of tobacco products will be able to be brought, but subject to the provisions of part VIB of the act, which encompass the provisions relating to limitation of actions and quantum of damages, as I mentioned earlier, and which were introduced in the Trade Practices Amendment (Personal Injuries and Death) Act (No. 2) 2004.

Tort law reform, as I observed earlier, has not been uncontroversial. But it has largely been implemented—and for the most part by state and territory Labor governments. This bill can be seen as a tidying-up exercise. The strict liability provisions of the Trade Practices Act were never designed to be a back-door route for personal injury claims. It would be ridiculous indeed for it to be allowed to remain so. It would undermine the whole move towards tort law reform that has been undertaken, as I said, really on a bipartisan basis. The bulk of the heavy lifting on tort law reform has, for constitutional reasons, been taken by state and territory parliaments, and it has been overwhelmingly Labor governments that have led that—and none more vigorously than the government in New South Wales.

Part of the objective of tort law reform was to make general insurance more affordable. That was a key focus of the original initiative by Senator Coonan when she was the minister and of the member for Longman, the current Minister for Revenue and Assistant Treasurer. The latest results on the affordability of insurance released by the minister on 11 August showed that public liability insurance premiums have, over the 12 months to December 2004, fallen by between four and nearly five per cent. Professional indemnity premiums have, over the same period, fallen by between 0.3 and four per cent.

The Australian Competition and Consumer Commission has provided its price monitoring report on insurance premiums to the government. Meanwhile, the Australian Prudential Regulation Authority provided its first national claims and policies database to assist the insurance industry in appropriate pricing and premium setting. Both reports were commissioned by the Commonwealth, honouring the government’s commitment—a commitment that, as I say, is a commitment of all Australian governments—to continue to put downward pressure on premiums.

It is a great pity that the Labor Party in this parliament—indeed, the only parliament in Australia—is so resistant to tort law reform. In every other parliament, Labor members and Labor governments have acted in a responsible way to, in the words of the former Premier of New South Wales, Bob Carr, ‘systematically wind back the culture of blame and restore the notion of personal responsibility’.
It is important to remember that there are many victims of a tort system that was out of control. The tort law reforms across Australia have not only resulted in great savings to the community at large and made it much easier for businesses to get insurance but also served to protect workers—particularly doctors, nurses, police and council workers—from senseless and speculative claims. The culture of blame—the victim culture—is a particularly corrosive one.

I imagine that members opposite will be unmoved by my words, but I hope that they reconsider their position on this bill and act as Labor governments have done, even though those opposite are but an alternative government in this House.

Mr BROUGH (Longman—Minister for Revenue and Assistant Treasurer) (12.30 pm)—in reply—I would like to thank all of the speakers on both sides of the chamber who have participated in this important debate today. It brings to a conclusion, in this place at least, the important reforms that, as the member for Wentworth so rightly pointed out, have been undertaken by both state and federal governments over the last few years in an attempt to restore confidence in the insurance industry and to put a cap on premiums, making them more affordable for the average person and business and, rightly, also for professionals. In doing so it brings some certainty into the law.

The Trade Practices Amendment (Personal Injuries and Death) Bill 2004 has been brought about because in the previous parliament the opposition, the Labor Party, sought to block this particular measure in the Senate, in contravention of all the state jurisdictions, who have agreed that this is an appropriate measure to ensure that we do not have jurisdictional jumping by those who seek to litigate. I will go to some of the concerns that have been raised by the opposition in an attempt to have them support the legislation in the other place as it moves through its processes.

In short, this bill will implement recommendations 19 and 20 of the review of the law of negligence. It will prevent individuals bringing actions for damages for personal injury and death under the ‘misleading or deceptive conduct’ and other unfair practices provisions of part V division 1 of the Trade Practices Act. It will also prevent the Australian Competition and Consumer Commission from bringing representative actions for damages for personal injury and death under these provisions.

The government considers that these measures are important. Continuing to allow damages for personal injury and death claims under part V, division 1, risks undermining state and territory tort law reforms—important law reforms that are now in place in many of the jurisdictions. This is because a number of actions that would not be possible under those state and territory negligence regimes could be brought by using part V, division 1, of the Trade Practices Act. The review of the law of negligence argued that, because part V, division 1, does not require fault to be established, and because it has been interpreted very broadly by the courts, lawyers will find it easy to frame claims that come within its requirements.

Without the measures contained in this bill the recent falls in public liability and professional indemnity premiums will be placed at risk. The ACCC and the Australian Prudential Regulatory Authority, APRA, have recently reported falls in public liability and professional indemnity of up to 4.8 per cent. This is very welcome throughout the Australian economy, as insurance is such a significant part of our business cycle and our economy in general. Also at risk would be the
foreshadowed future falls in insurance premiums.

This is not the end game; this is simply an important step in ensuring that insurance is affordable, that it is available, that the products that meet the market are there and that the industry remains stable. There would be considerable uncertainty regarding the prospect of future claims being made under the Trade Practices Act and the potential for cost savings resulting from state and territory reforms to be eroded by an alternative course of action. As I have explained, this bill will prevent actions for personal injury and death under part V, division 1.

Some of the questions that have been put during this debate by those who sit opposite were asking us to point to the evidence that actions under the Trade Practices Act 1974 are undermining state and territory reforms. The government acknowledges the difference between an action in negligence and an action under the Trade Practices Act 1974 for misleading or deceptive conduct. For example, there is a requirement of the Trade Practices Act that the conduct be ‘in trade or commerce’ and this requirement does not exist in negligence. For a claim to succeed under section 52 of the Trade Practices Act there is no requirement to prove that the defendant was at fault. I will say that again: there is no requirement to prove that the defendant was at fault. The plaintiff merely has to prove that the statement was misleading or deceptive, even if the defendant made the statement with the utmost care and with complete honesty. This is what we are trying to prevent from happening.

However, despite the differences, actions under the Trade Practices Act for misleading or deceptive conduct do provide significant scope for plaintiffs to evade state and territory reforms to limit liability under the law of negligence. The ACCC has acknowledged in its evidence to the Senate committee that lawyers will often plead liability under the Trade Practices Act for misleading or deceptive conduct as an alternative to liability in negligence. In simple terms: they cannot prove negligence so they go to this misleading and deceptive conduct provision in order to get a case up. If there is little scope for one course of action to be substituted for the other, why are they so frequently pleaded in the alternative?

The review of the law of negligence acknowledged that, up until state and territory civil liability reforms had been implemented, claims for misleading or deceptive conduct had been rarely relied on for personal injury or death claims. It was unnecessary to pursue a claim under the Trade Practices Act because, before the state and territories introduced tort law reform, there were no statutory limits or claims for personal injury or death under state and territory legislation. However, the review also identified the potential for claims under part V, division 1, of the Trade Practices Act to be used as an alternative to claims in negligence and therefore a mechanism by which the reforms to the law of negligence could be evaded.

Indeed, in the past two years we have seen a number of cases where plaintiffs have pleaded a claim for personal injury or death under the Trade Practices Act to circumvent the state and territory reforms. It would appear that these claims have generally arisen as the plaintiff would be prevented from claiming any damages under state and territory law. This is what we seek to prevent and it is the reasoning for us reintroducing this bill.

So what do the states and territories have to say? As many speakers pointed out, it was the leadership of the federal Howard government and my predecessor, Senator Helen Coonan, working with the state ministers to
bring together tort law reform on a basis that gave us some consolidation and conformity around this great nation. So the states and territories have actually demonstrated—and I point out that each and every one of them is a Labor government; we all know that—their strong and continued support for this bill. The states and territories know that, if the amendments proposed in this bill are not made, there is a risk that plaintiffs could evade the reforms to the law of negligence that have been made, as I have previously explained.

Furthermore, New South Wales, Queensland, Victoria and Tasmania have already passed amendments to make equivalent changes to their own fair trading acts. Businesses in this country call regularly for uniformity across jurisdictions in areas of business so that, when they are operating a business or a branch of their business in, say, Queensland and another in Western Australia, they do not have to deal with different laws, even when conducting basically the same business with the same proposals and staffing arrangements. This will also give them certainty in understanding what they are dealing with. That is just a by-product of the bill.

It is also important to acknowledge the response of the ACCC, with its economic analysis and commentary on the likely impact of this bill. I say that because I think it has been used by those opposite to suggest why this should not go ahead in its current form. In previously opposing the bill, the opposition cited some of the economic analysis provided by the ACCC in its review. The opposition then noted that preventing consumers from seeking damages for misleading or deceptive conduct could reduce the incentive for firms to minimise misleading or deceptive conduct, be economically inefficient or undermine competitive processes by allowing firms that engage in misleading or deceptive conduct to win customers at the expense of those that do not.

The government considers that there will continue to be strong incentives for firms to avoid behaviour that may lead to personal injury or death, including misleading, deceptive or unfair conduct. Firms will continue to be subject to a range of orders or remedies under the Trade Practices Act and firms will also continue to be liable under the law of negligence. These amendments do not alter actions for misleading or deceptive conduct in any way; they only affect personal injury and death claims. Consumers are not likely to incur greater search costs to find reliable suppliers, because existing provisions will ensure that firms will continue to have strong incentives to avoid conduct that may lead to personal death or injury.

Finally, there is this important question: will people be left without a right of action? These amendments support state and territory civil liability reforms by preventing easy substitution of a Trade Practices Act damages action for a common-law action. Plaintiffs will still be able to pursue personal injury or death claims under the Trade Practices Act—such as actions in tort, proof of misleading or deceptive conduct, or under the other unfair practices prohibited under the Trade Practices Act, as modified by state and territory civil liability legislation, rather than to bring that action under the Trade Practices Act—such as actions in tort, proof of misleading or deceptive conduct, or under the other unfair practices prohibited under the Trade Practices Act does not require any finding of fault.

Subsequently, if there has been a personal injury or death and the plaintiff is unable to prove any fault on the part of the defendant, they may be left without a right of action. The plaintiff will be prevented from taking action under the Trade Practices Act and, in
the absence of evidence of fault, they may not be able to establish an action in tort. However, regarding existing case law, Trade Practices Act claims are usually pleaded in the alternative with common-law claims. Consequently, it is not expected that a significant number of people will be left without any right of action.

As I have explained, this bill will prevent actions for personal injury and death under part V, division 1. However, firms that engage in unfair practices, including misleading or deceptive conduct, will continue to be subject to the Trade Practices Act. The government is confident that the prevailing Trade Practices Act remedies the orders and will ensure consumers are protected and competitive processes are not undermined; these include criminal sanctions under part V(C), division 2. Remedies are also available in contract and tort. I commend the bill to the House.

Question agreed to.
Bill read a second time.

Third Reading

Mr BROUGH (Longman—Minister for Revenue and Assistant Treasurer) (12.41 pm)—by leave—I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

IMMIGRATION IDENTITY DOCUMENTS

Mr BURKE (Watson) (12.42 pm)—I have received a request from Minister Vanstone that a number of documents be made available. I therefore seek leave to table the following documents.

Leave granted.

Mr BURKE—I table the following documents:

(1) a letter from the Department of Foreign Affairs and Trade to Ms Marion Le, dated 17 June 2005, confirming that two sets of Australian identity certificates were issued to the same couple;

(2) copies of the Australian identity documents detailing two identities for Valbona Kola, expiry date 21 June 2007, and others;

(3) assorted identity documents in Serbian and English for Telumi Valbona;

(4) Australian identity documents, detailing two identities for Mr Kola, issued in Australia in 2004;

(5) copies of assorted identity documents in Serbian and English for Ergi Kola;

(6) a United Nations High Commission for Refugees record of contact with Ergi Kola and Valbona Kola in Albanian;

(7) the decision in the Federal Court of Australia: Kola v. Minister for Immigration and Multicultural Affairs [2002] FCA 265;

(8) a letter from the Department of Immigration and Multicultural and Indigenous Affairs to Mrs Kola’s migration agent, Ms Marion Le, dated 22 July 2005, acknowledging a thorough investigation of Mrs Kola’s case will be conducted;

(9) a letter from Senator Vanstone to Mrs Valbona Kola, dated 29 August 2005, addressing her as Mrs Kola and advising that she has exercised her ministerial discretion to release Mrs Kola into community detention.

HIGHER EDUCATION LEGISLATION AMENDMENT (WORKPLACE RELATIONS REQUIREMENTS) BILL 2005

Second Reading

Debate resumed from 23 June, on motion by Dr Nelson:
That this bill be now read a second time.
The Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005 lays bare the Howard government's extreme ideology, because it holds Australia's universities to ransom by making $838 million of desperately needed funding for our universities conditional upon meeting the government's unreasonable industrial relations requirements. Quite simply, the government is blackmailing universities into implementing John Howard's industrial relations policies. The bill imposes on the funding of higher education institutions unprecedented workplace relations conditions that have nothing whatsoever to do with the core functions of universities, which are teaching, research and community service.

At one end of the spectrum, this bill contains absurd attempts at micromanagement of issues that any sane person knows should be left to the management of universities and their staff. At the other end of the spectrum, the government is seeking to diminish terms and conditions of employment in areas like redundancy pay and maternity leave, to allow Australian workplace agreements to override existing agreements and to remove limits on excessive levels of casual employment. These are drastic changes that have nothing whatsoever to do with teaching and research and conditions of employment in areas like standards and quality and hardly penalise or restrict the rights of university staff. The government's higher education critics are now bullying our universities into implementing their extreme and divisive workplace relations agenda. The changes we are debating today will cause massive disruption on our university campuses. University teaching and research will be the first casualties to suffer, while staff and the university community are forced to focus on these industrial relations changes instead.

I want to go through some of the details of the bill we are debating. The Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005 compels universities to put the government's industrial relations agenda before educational standards and quality, and harshly penalises many of the government's higher education critics. We have already seen this government's extreme piece of legislation end current funding arrangements for vital university services for students—legislation which even members of the coalition parties are now criticising, because they know it is only being driven by ideology. Just as the anti student services legislation will effectively wipe out the capacity of student organisations to represent and advocate for the interests of university students, so this current bill attempts to neuter the ability of the organisations which represent staff in higher education institutions to successfully carry out their functions.

The bill provides that, under the terms of the Higher Education Support Act 2003, the funding conditions for universities may be imposed on universities in order to ensure the government's industrial relations agenda is met. The government wants to force universities to put the conditions in place to ensure the government's industrial relations agenda is met. This government has been responsible for cutting $5 billion from Australia's universities since it was elected. It has refused to properly index university grants and it has forced universities to rely on student fee income. So we have seen this government leave our universities in a dire financial position. But, not content with the disarray that this has caused, the government is now bullying our universities into implementing an extreme and divisive workplace relations agenda. Universities should be allowed to focus on their missions and their core functions—teaching, research and community service—and not have to serve as a testing ground for the Howard government's attack on the working conditions of Australians.
creased but only if certain unreasonable conditions are met. To be eligible for future additional funding, this bill will force universities to observe the new higher education workplace relations conditions. We are not talking about peanuts here; we are talking about significant additional funding—2½ per cent of each university’s basic grant in 2005, five per cent in 2006 and 7½ per cent after that. This bill incorporates these workplace relations conditions into the Commonwealth Grant Scheme guidelines and also requires the Minister for Education, Science and Training to be satisfied that these higher education workplace relations arrangements have been implemented if universities are to receive the additional conditional funding. For universities facing a critical shortage of funds because of the now 9½ long years of funding cuts under this government, this additional funding is not merely optional or voluntary. Universities will have no choice but to accept these conditions because, basically, the Howard government has starved them into submission. Effectively, this is industrial and economic blackmail.

There are five specific conditions which must be met, and I want to go through each of them individually. The first relates to choice in agreement making. Under this provision, universities must offer Australian workplace agreements to all new employees employed after 29 April this year and to all other employees by 31 August next year. Until 30 June next year, universities are exempt from offering AWAs to casual employees engaged for a period of less than a month. Any certified agreements made by a university and certified after 29 April 2005 are to include a clause that expressly allows for AWAs to operate to the exclusion of the certified agreement or to prevail over the certified agreement where there is any inconsistency. At the moment, universities may offer AWAs to staff under existing certified agreements. This was the result of the education minister’s arm twisting the last time this matter was in the Senate in 2003. But apparently that was not sufficient for the government and now we see their obsession with total control. They want to get their own way, without regard for the rights or opinions of anybody else.

A new condition imposed in this bill is that every single university employee must be offered an AWA by 31 August 2006. That demonstrates the minister’s complete disregard for the smooth day-to-day management of our universities and, certainly, his lack of concern for how employees on Australian workplace agreements fare. By mandating that every employee must be offered an AWA rather than leaving it as one among various options, this provision goes well beyond the existing position. In the process the government is seeking to introduce a stipulation for the higher education sector that is way in excess of its own extreme industrial relations policy for the work force generally.

We know that employees on AWAs earn two per cent less and work six per cent more hours than those on registered collective agreements. What is more, for women in particular, those women who are employed on individual contracts earn 11 per cent less an hour compared with men employed on collective agreements. Currently, women receive around 90 per cent of the hourly pay of men employed on collective agreements. That percentage is reduced further under AWAs, where women earn only 80 per cent of the hourly pay of men. Casual and part-time employees on AWAs earn 15 per cent and 25 per cent less respectively relative to their earnings under the terms of collective agreements. So we know from the current experience that when employees are put on individual contracts they are, on average, worse off. It certainly is the case that AWAs are bad news for employees, especially for
women, and we know that women represent over 50 per cent of university staff.

The Minister for Education, Science and Training protests that AWAAs are subject to a no disadvantage test and no-one can be coerced into accepting them, but in reality it is very clear that the government’s no disadvantage test, applied by the Office of the Employment Advocate, is merely a rubber-stamping exercise and that there is little considered evaluation of the underlying terms and conditions of employment in the relevant award.

The second part of this bill that I want to go to relates to direct relationships with employees. This condition stipulates that university workplace agreements, policies and practices must provide for direct consultation between employees and the institution about workplace relations and human resource matters. Further, so-called third party involvement in representation of employees must occur only at the request of an affected employee. Other details under this condition are that consultative and other committees must include direct employee involvement and that employee involvement in negotiations on industrial relations issues must not be restricted only to third party representation.

It is clear that what the government is really trying to achieve through this condition is the exclusion of unions from a role in consultative processes relating to staff. If third party involvement can occur only at the request of an individual employee and not as a right, it is all too easy to imagine that many university staff will feel intimidated and forgo the opportunity to be represented at all. There will be immense pressure brought to bear on individual staff not to nominate an experienced union official to represent them in critical industrial relations negotiations. Labor certainly cannot support such an unreasonable and unbalanced system of workplace representation that is clearly designed to just hobble the legitimate role of an industrial association or union.

The next condition I want to talk about relates to workplace flexibility. This condition states that new workplace agreements should expressly displace previous workplace agreements and relevant awards. These new workplace agreements are not to limit or restrict the ability of universities to make decisions and implement change in respect of course offerings and associated staffing requirements and limitations are not to be placed on the forms and mix of employment arrangements. It is clear that the Howard government wishes to use these provisions to nullify the impact of the existing higher education contract of employment award. This award was made by the Industrial Relations Commission. It regulates fixed term employment by limiting the circumstances in which fixed term employment may be used. It was arbitrated by the Industrial Relations Commission because of the widespread use and abuse of fixed term contract employment in our universities.

Likewise, under this condition the government is taking aim at the vital protections in place through restrictions on casual employment that were agreed between the universities and unions in the last round of enterprise bargaining. The level of casualisation in the higher education sector has reached extremely high levels, to the point that its incidence is second only to that in the hospitality and tourism industry. Such high levels of non-continuing and insecure employment certainly jeopardise the quality of research, teaching and learning. The abolition of these safeguards would result in an obvious escalation in the level of casualisation, and that too is an outcome that Labor is certainly not going to support. There can be no doubt that, if this bill is passed, the gov-
The government will press universities to strip back essential protections from their agreements until the result is something resembling very much hollowed-out safety net awards.

The next area goes to productivity and performance. Universities’ workplace agreements must include a fair and transparent performance management scheme to reward so-called high flyers and must also include efficient processes for managing poorly performing staff. However, this seems to ignore the fact that all universities are already able to reward the high flyers—and, indeed, many do so through the use of salary loadings and the payment of market and merit loadings. Approximately 30 per cent of university staff are employed on contracts that contain such mechanisms. Furthermore, existing agreements already provide for mechanisms to deal with unsatisfactory or poor performance. So the real agenda here is not as it is stated, because those things are happening in our universities; the real agenda here is for a wholesale expansion of punitive measures to make it far easier to terminate the employment of staff that universities deem to be unsatisfactory. This would certainly be achieved when this provision is coupled with others, such as those designed to expel representative employee organisations from industrial relations negotiations.

The government is not seeking to prevent Commonwealth grant funds from being used to support facilities and salaries of non-union negotiators who may be involved in local bargaining; it is only seeking to prevent the funds from being used to assist the union negotiators. Once again this is a clear indication of this government’s anti-union attitude.

The government is not seeking to prevent Commonwealth grant funds from being used to support facilities and salaries of non-union negotiators who may be involved in local bargaining; it is only seeking to prevent the funds from being used to assist the union negotiators. Once again this is a clear indication of this government’s anti-union attitude.

It is clear beyond doubt that this bill is yet a further attempt by the government to implement what can only be described as an ideologically driven, extreme industrial relations agenda—this time in the higher education sector. They are blackmailing our higher education institutions to create an environment where unions are weakened or destroyed so as to substantially diminish the terms and conditions of employment of staff.

In contrast to this high-handed approach by the government to industrial relations, I want to highlight the principles that Labor has for industrial relations policy. The six key features of our position are that a Labor government would recognise the need for a strong safety net of minimum award wages
and conditions; a strong independent umpire to assure fair wages and conditions and to settle disputes; the right of employees to bargain collectively for decent wages and conditions; the right of workers to reject individual contracts which cut pay and conditions and undermine collective bargaining and union representation; proper rights for Australian workers who are unfairly dismissed; and the right to join a union and to be represented by a union. These are the principles that Labor will base its industrial relations policy on. Its commitment is for a productive and fair industrial relations system and it wants to see a return to dignity as well as productivity in the workplace. If this bill is any guide, dignity and productivity in the workplace hardly seem to matter to this government. Through this bill, this government is creating a vehicle for the erosion of salaries and working conditions of university employees. Many of these very hard-won employment conditions will be wound back or lost if the bill proceeds.

I just want to touch on some of the conditions that staff have previously negotiated and now enjoy but which will go. One area that universities, their staff and the unions have negotiated to improve is maternity leave. Maternity leave provisions have certainly been much improved in very many of our universities. The community standard for maternity leave under the Howard government is no paid leave at all. That is the community standard that universities will have to measure themselves against. So we could see university staff having their paid maternity leave conditions stripped back to that standard. We could see university staff across the country facing a major loss to their conditions. The best practice family-friendly entitlements are 26 weeks of paid maternity leave, and that has been offered at some 27 of our universities—very significant conditions at a large number of our universities. At a small number of universities—seven universities—they actually have 36 weeks of paid maternity leave. Our concern is that those excellent family-friendly entitlements are going to be taken away from those staff if this legislation goes through.

But paid maternity leave is not the only area where we are concerned there will be a reduction in conditions. There will also be threats to the restrictions on the number of casual staff that are employed in our universities. We currently have restrictions on the number of casual staff that can be employed. The Labor Party are certainly very concerned that as a result of this legislation those conditions will be removed. Another area where we may see a reduction in conditions is in redundancy pay arrangements. These are just some examples of areas of improved conditions that staff, their unions and the universities have negotiated over a period of time. The universities, the staff and the unions recognise that these are in the interests of the universities as well as in the interests of staff. That is why they have been negotiated and agreed upon. Now we have this incredibly heavy-handed legislation coming into the parliament saying that these conditions can be undermined by individual contracts that may have much lesser conditions. The government seems to have no regard for these hard-won conditions of employment that university staff and their unions have negotiated. These are conditions that staff depend on.

We also know that students will be the great losers, particularly if staff lose the restriction on the number of casual staff employed in our universities. Students do need to know that there will be a decent number of full-time and ongoing staff, not huge numbers of casual staff that they can never find. It seems to me that this bill can only be described as following the extreme ideological agenda that we know this government has. I
say very clearly to the government today that the Australian Labor Party will have no truck with legislation of this kind. We will not be supporting this bill. We will be opposing the bill with as much energy as we can muster and we will certainly be taking the fight on this legislation and this industrial relations agenda out into the community to support the conditions of university staff and to support the students’ demand for high-quality education. We know that that education is going to be fundamentally threatened by this legislation, so we will certainly be strongly opposing it.

Mr TUCKEY (O’Connor) (1.07 pm)—I thought the last comment by the member for Jagajaga was probably the most illogical. The idea that a process that gives university administrations both an opportunity and a responsibility to select the best possible teachers and to reward those who are in that category is somehow harmful to students takes a little bit of working through, just as it does to refer to such an arrangement as some sort of extreme ideology. The extreme ideology is that of confining university educators to one category. It does not matter what their thoughts are or what subject they teach, but when it comes to remuneration you can put them in a box. Why do you need a box? Because that creates a job for certain people who have 50 per cent of the preselection rights over every Labor member in this place. That is the box and that is the situation. It was interesting when the figure dropped from 60 per cent to 50 per cent. What that means is that now you need just one other vote.

The reality is that this legislation, the Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005, is highly beneficial to students. University administrators are obliged to do no more than offer the choice of an AWA to those who might think that is the most appropriate way. If in that process the university thinks it is in its and the employees’ interests to have extensive paid maternity leave, that is not prohibited under an AWA. The deal can be of any nature. The only prohibition, as I recollect, is that it cannot be worse than would be offered under the award system.

As a consequence, a university administrator may decide that there are highly qualified good teachers—and the ability of a person to teach, as compared to the sum of their knowledge, is an aspect of education that is oft overlooked. When the university administrator takes that decision and if you are a HECS-paying student, then through whatever efficiency gains are involved—for instance, as this legislation requires, not having to divert scarce capital to pay union reps—isn’t there a possibility your HECS might be somewhat less as a consequence? Or is it laissez faire for university administrators to rack up the costs and impose them on the students? They have to pay their HECS out of their future personal income.

Surely there is a responsibility on this parliament to ensure that university administrators cannot be bullied into a narrow employment program when it is probable that they could do better for their students, for their institution and, I might add, for the Australian taxpayer. We get this idea in here that the Minister for Education, Science and Training is the sole determinant of what people who are in receipt of huge sums of taxpayers’ money can do and that he and possibly the residents of this place are the only people who should have a say about this. I would welcome the member for Jagajaga going out and telling students that any attempt to lower their HECS cost should be resisted at all times and that they, through their HECS, should pay union officials. I would like to participate with her in that argument. I would also welcome her telling
students, what is more, that universities should not be efficient in attracting quality people to address and either tutor or lecture their students. What do you want from a university—some closed club that benefits only those who live there? I would have thought it was the other way around.

There is an uninvited third party involved in workplace arrangements, according to the member for Jagajaga, whom she portrays as the government. No, it is the taxpayer. The uninvited third party, if one exists, is the taxpayer, because that is whom we represent in this place. It is about time that certain people aspiring to government realised that the taxpayer votes. Sometimes I think they forget it. We are Australians. We do not come from one of these dictatorships that says one size fits all.

Mr Fitzgibbon—It’s changing.

Mr TUCKEY—If you want to have a bit of a gamble on the next election, you see me later and we will decide on the odds. But the reality is that people in Australia want choice. They demonstrate it by voting with their feet in primary and secondary schools. Do not tell me that is only occurring in the high-quality leafy suburbs of our capital cities. I remember opening the extension of a private school in the electorate of Brand. It was a religious school and it had to have all these extra classrooms because, within two years of opening with an estimated 50 or 60 students, it had exploded to something like 300. Who made that decision?

Mr Fitzgibbon—Why didn’t you get the local member to do it? Did you invite the local member?

Mr TUCKEY—I welcome the interjection, because it is just evidence of how distanced the opposition are from the desires of the average Australian. I hope they keep it up. They can fight against these sorts of reforms as much as they like, because there is only one side of the parliament that you can occupy when you talk like that. It is great; it guarantees the re-election of the Howard government in future years, because the people make these decisions. I think at some point the member for Rankin, who interjected, said, ‘They’re not stupid.’ He is quite right. But he does not behave in that fashion when he interjects on me when I raise these logical arguments that the cost of running a university is a direct cost to taxpayers and their children which is added to their HECS tax burden.

There is the issue of casualisation. Casualisation is highly beneficial to many people seeking employment who do not want a full-time job. I have worked extremely hard to get a small university development in Geraldton in my electorate. We had to talk with the locals. It is quite unique in that places were granted in a town that had no university. It has one now, and it has a $3 million taxpayer funded investment in the buildings that will be associated with that university. We talked about the local human resource to tutor and the things we could do if a university facility was operating in a town of 30,000 people. We were astounded. We had PhDs coming out of the air—retirees who wanted the challenge of part-time work, who wanted to be a casual worker because they did not want full-time work and who wanted some mental stimulation. They had these wonderful qualifications to assist the kids of Geraldton but, to hear the member for Jagajaga, that is some sort of criminal activity.

The same applies to families seeking to add to their revenue, where one partner—who would be supporting the children during the week—wants to work on weekends. But we still have all these silly ideas that, if you take casual work on a weekend, you have to be paid twice as much to do it. So the employer says, ‘I’m sorry, I’ve just locked the gate; I cannot afford to employ you on the
weekend,’ yet there are people asking for that type of work because it suits their family arrangements—and I could expand on that with past experience.

There is the idea that one size fits all, and the member for Jagajaga told us that the body of all bodies—the Industrial Relations Commission—came to some decision, as though that was the only one upon which people were entitled to arrange their employment. I would imagine Joseph Stalin or someone like him would think that was a good idea. Personally, I hold to the view that, if someone wants to go to their employer, if they cannot be exploited under the law—in other words, there is a minimum wage that has been set and this legislation accommodates that, as does all the AWA legislation—why can’t they do it?

Let me say that, with respect to 36 weeks paid maternity leave, it is great if you can get it, but that is a very expensive process considering who pays the bills. I think it is grossly unfair to married women with children who go back to work because income is needed to pay the mortgage and to pay for other things, or maybe to save enough money to put their kids through private school. One of the more surprising things in my life has been the number of government school teachers I know who are back teaching in government schools so they have enough money to put their kids into private schools.

Mr Fitzgibbon—Name them.

Mr TUCKEY—I do not do those sorts of things; that is the preserve of the opposition. They go and blackguard people by way of questions, and of course the member for Jagajaga has had more experience in that than most people. All in all, this legislation takes nothing away. It creates a further option for the employer and the employee. Recently, I did some checking because of the hoo-ha about the proposed new industrial relations legislation and the advertising that was conducted by the ACTU that said that virtually overnight everyone would be on an AWA. There are a lot of opportunities for AWAs under present legislation and only 15 per cent of workers are so covered. That has been a matter of choice. There are employers who do not care or do not want to do it and there are employees who would decline it.

One matter that I have raised in this place on many occasions is that, whether you be the vice-chancellor of a university or the person who does the hiring and firing, you do not have a habit of sacking your best worker because you got up feeling a bit grumpy that morning, which is an inference we hear from the other side so frequently. If I were an active small businessman today, I would be trying to get a class action for defamation relating to that advertisement that shows a typical small business employer—who happens to conduct his business during the night, and there are a few—ringing one of his employees, who he knew had two children, and telling them to come to work or risk the sack. For a start, that would be illegal under future legislation, because it is unlawful. But the reality is that it is a terrible indictment, an insult to the typical small business person—who probably lives next door to some trade union official or attends the same church—to suggest that they would ever do that. I believe it is defamatory, but of course people have got so used to these sorts of protestations that they pass through to the keeper. The reality is that, under these arrangements, those people who manage and administer universities will seek out the best people they want to keep. It is those people to whom they will be offering AWAs and, as is typical in the other AWAs, the remuneration and the rewards will be higher.

I use the example, published in the *West Australian*, of a bulldozer driver in the Pil-
bara—he had his name published and had no difficulty—who said: ‘I took an AWA. My wages went up by $20,000 a year and I was given staff superannuation.’ As I have said in writing in my electorate, you wonder how the employer could be so generous. It was because they were able to escape the industrial agreement and did not have to have two drivers for that bulldozer at all times and a shed for the driver who could not fit on the bulldozer to sit in and read books or play cards with others in the same category. Imagine it—an industrial agreement, negotiated by trade unionists, which creates two jobs when a bulldozer seat can only fit one person! That is not good for anybody—and it filters through. And worse, when it relates to institutions such as universities, which are primarily publicly funded, it is a terrible burden on the taxpayer.

This legislation has a simple purpose. As is probably necessary, it gives some protection to the administrator by insisting that, when they attempt to have some AWAs, they will not have another group of trade unionists saying it will not mark kids’ papers. We know that has happened in the past. The legislation gives them that protection. Otherwise, it says to them and to the employees, ‘You have the freedom of choice to operate under award conditions—with the difficulties, costs and relatively low rewards that that encompasses—or to sit down and negotiate a fair arrangement with someone you probably went to university with in the first place.’ If you are good, and the AWA is not good enough, your employer knows that you have the opportunity to go somewhere else.

I see that Telstra executives have denied today that they have made a crash-and-burn decision to dismiss some 14,000 people. I doubt that sincerely, and they have denied it. When one looks at America and around the world, there is an interesting history. When rationalisation of work forces commenced—and the newspapers were each day full of very substantial redundancies—the more redundancies there were, the less unemployment there was. In other words, businesses got efficient and created other jobs. Anyone can check the statistics. When we had all the mass redundancies, unemployment did not go up; it started to come down. It is quite interesting. As I think I read in the US when it was happening, a typical worker was unemployed for only 30 days before they got another job—even though tens of thousands were being made redundant at the time. I think those statistics are worth consideration. Everybody feels sad for a person who loses their job, but, if the economic system is working well, another job is just around the corner.

There is a suggestion that casual work is an anathema in the workplace—but it is not. It is considered highly desirable by a large percentage of people because of family or other circumstances. Maybe they are retired or would just like to be doing something that adds to their income. As I said, in the case of universities, it can give people the stimulation that they suddenly realise they abandoned by going into retirement. If that is bad, I would like proof thereof. I think it is part of the process and not necessarily the result of AWAs. Of course all employers should offer AWAs to those who want them. The evidence is that not everyone takes them—that is in the statistics.

Dr EMERSON (Rankin) (1.26 pm)—It is the responsibility of any government to ensure an equal opportunity in life for all of its young citizens, yet this government has spectacularly failed to do so. When we look back at the nine long years of this government, it is easy to recall a range of scandals that have plagued it. But the great scandal of the Howard government’s term in office is its neglect of higher education—its unwillingness to ensure that every young Australian has the
capacity to go from school to higher education irrespective of their income or their parents’ income. Surely it is a most fundamental right in a democratic society that everyone has an equal chance in life, but that is not a philosophy with which this government agrees. Instead, the government uses legislation such as the Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005 to pursue its extreme ideological agenda. It is obsessed with changing the industrial relations arrangements in every part of the Australian workforce—in this case, the university workforce.

Where are the massive inefficiencies and restrictive work practices in the university sector that this government alleges it is attacking through this legislation? By and large, the workforce in the university sector is flexible. There are opportunities to pay the better-performing academics at higher rates. A case has not been made by this government, or by its supporters, for this legislation. As we know, the government extends its extreme agenda into other areas of the university system with its ideological pursuit of student unionism. The big kids on the other side of the parliament who practised student politics in preparation for parliament continue to practise student politics to get square with those they took exception to in their university days. As a result, the debate on the government side of this parliament about university education consists almost entirely of arguments about changing the industrial relations arrangements and changing the student unionism arrangements.

Therein lies the scandal, because there should be a proper debate across this parliament about university funding and the performance of our universities. That debate has not occurred on the government side. On many occasions we on the opposition side have sought to engage in that debate, which is so vital to Australia’s future. The shadow education minister routinely comes into the chamber to argue for a better system of higher education in this country, but we always get diverted into arguments about voluntary student unionism and industrial relations changes.

The coalition government’s attitudes to university education mark a huge departure from the philosophy of the last three decades in Australia, which emphasised talent and hard work over capacity to pay. The government’s philosophy was no better demonstrated than in the Prime Minister’s statement on 6 March 2005:

... 30 years ago, we started getting this foolish bind that everybody had to go to university. What is wrong with going to university? What is wrong with making a university education available to every young person who is committed to doing the hard work and who has the talent? This government practises a prejudice whereby the sons and daughters of affluent and already privileged Australians have some automatic right to go on to university but the sons and daughters of working Australians do not—they should be diverted into technical and vocational education.

We know that the Whitlam Labor government introduced a university education that was free of charge and that the Hawke Labor government embarked upon a very ambitious program of expanding the number of university places. The philosophy that bound the Whitlam and Hawke Labor governments was one of ensuring that every young Australian had the opportunity to develop their talents based on hard work at university. The Hawke government introduced the Higher Education Contribution Scheme, or HECS, which is a loan to students repayable out of future income designed to enable them to make some contri-
bution to the cost of their university education. Vitally, though, the extra funding generated out of HECS was used to expand the number of university places so that all young people could have that equal opportunity in life. The repayment of HECS was conditional upon the graduate reaching a specified income threshold and those who did not reach that level of income were not obliged to repay the loan.

The Hawke government set the level of HECS fees so as to only partially recover the full cost of a university degree, and that was around 20 to 30 per cent of recurrent costs. The purpose of limiting cost recovery to only part of the full cost of a university degree was a recognition of the wider benefits to the community of our young people going on and gaining a university education. This government does not seem to accept that there are wider benefits to Australia from having people undertake a university education. Why do I say that? Because in 1997 the Howard government increased HECS charges by between 31 and 119 per cent, depending on the course. At the same time, the Howard government reduced the income threshold at which repayments of HECS begin by 30 to 40 per cent. It also provided for full fee paying Australian students but without a loan scheme. Consequently, the take-up rate was very small, presumably because students did not have the money to pay full up-front fees.

An analysis of the socioeconomic composition of university enrolments from 1988, just before the introduction of HECS, to 1999, well after the introduction of HECS, found:

... HECS did not discourage university participation in general or among individuals from low wealth groups.

It also stated that HECS:

... has had no discernible effects on the access of the disadvantaged to higher education.

That analysis was conducted by the architect of HECS, Professor Bruce Chapman. The fundamental problem here is that, since coming to office in 1996, the Howard government has increased grants to universities at a rate slower than the cost increases that those universities have experienced—in other words, less than full indexation. But, if the saga that I have already described is not bad enough, in 2005 profound changes were made to the funding arrangements for universities by the Howard government.

First, universities were allowed to increase their already substantial HECS fees by up to 25 per cent, and most universities took the opportunity to do that. Why? Because they are starved of cash—a deliberate policy of this government. Second, the HECS repayment threshold was lifted from $26,500 a year to just over $36,000 a year. In itself that was a step in the right direction, so I recognise that. But, third, a massive retrograde step was taken in that universities were permitted to fill up to 35 per cent of places for Australian students with full fee paying students. Fourth, to assist these full fee paying students an income related loan like HECS called FEE-HELP was introduced, but it was capped at $50,000. So, if the cost of the course was greater than $50,000, you could only get FEE-HELP up to $50,000. We know from the minister’s own mouth that there are at least 47 university degrees that cost more than $100,000 and some cost up to $200,000. So a FEE-HELP arrangement capped at $50,000 does not help constituents from your electorate, for example, Mr Deputy Speaker Hatton, who do not have the ready cash to make up the difference between a $50,000 loan and the $100,000 and $200,000 university fees.

Of the four measures, the lifting of the income repayment threshold for HECS was a
positive move, and I acknowledge that. It benefits those students, especially women, who might expect their incomes following graduation not to exceed $36,000 a year. In those circumstances those graduates would never had to repay their HECS debts. But the other changes will be very damaging. Cash starved universities will need to avail themselves of alternative funding sources such as HECS fee increases and full fee paying students. Most universities took the opportunity to increase their HECS charges by a full 25 per cent and the FEE-HELP arrangements will encourage a much bigger take-up by full fee paying Australian students.

The effect of capping FEE-HELP at $50,000 for courses that cost more than that is to oblige students to make an up-front contribution before they have completed their university education. An analysis of the HECS fee increases conducted by Professor Bruce Chapman and Gillian Beer concludes:

... the government will be transferring the problem associated with indexation shortfalls away from taxpayers to students. It is difficult to believe that the current pre-2005 HECS levels are markedly below what they should be.

It also says the 2005 HECS increases rest:

... uneasily with the economic rationale for public sector additional financial support, which suggests that activities associated with spill-over social benefits should be subsidised by taxpayers; in other words, that students should pay less than the full costs of the activity.

Hear, hear! I agree completely. The same analysis by Professor Chapman and Gillian Beer of the capping of FEE-HELP at $50,000 concludes that it has the:

... potential to jeopardise the access of those who expect to receive relatively low future incomes.

It says this is:

... very regressive when viewed in a lifetime context.

Cash starved universities will have every incentive to lift the proportion of their students who are paying full fees and to correspondingly reduce the proportion of subsidised places—that is, places subsidised by HECS.

In what must be the most celebrated interview that has occurred in the nine long years of this government, the Minister for Education, Science and Training, on 4 August 2004—the morning after Professor Bruce Chapman had delivered his verdict—engaged in an extraordinary dialogue with Jon Faine. I do confess to having mentioned this before, so I will not go through the entire transcript, as entertaining as that is. But to give members a flavour of this interview, Jon Faine said:

Well don’t you think it’s fair that anyone from any family no matter what their capacity to pay but just on their sheer ability should have an equal chance?

That is a very good question. The minister replied:

Well the situation in theory, you are right.

The minister went on to say:

... the situation we have got at the moment is that you miss out on a HECS place, whether you are rich or poor the university will offer you a full fee paying place, at the moment, until our reforms start next year, if you are poor, you are just as likely to say ‘I can’t afford it, love to do it’. So instead you take up a HECS place in a uni you don’t want to be at.

Jon Faine says:

And someone else who can just write out a cheque …

Nelson: Exactly!

Faine: … because Daddy has got the money in the bank …

Nelson: Exactly!

Faine: … buys that place and that is not fair.

Nelson: You are absolutely right Jon.
This is government policy. The minister very confidently went into the cabinet room to get that $50,000 limit on FEE-HELP removed and got rolled by his colleagues the Treasurer and the Prime Minister. Instead they have diverted down this path of trying to change the workplace relations arrangements in universities and have a crack at student unionism.

What should have happened is that the minister should have won that battle. The fact that he did not win that cabinet battle makes him impotent and it also demonstrates that this government does not believe that there are wider benefits for our society of young Australians completing a university education. The truth is these fee increases that have come into effect from 2005 have made Australia an even less affordable place to go to university.

An international comparison of the affordability of a university education finds that Australia ranks a lowly 11th out of the 15 countries—that were examined. Australian university students must find an average of more than $14,000 a year to meet education and living costs, making Australia the fifth most expensive place to study. That was before these fee increases came in.

Australia stands out among OECD countries as the one country where increases in private spending on education have substituted for rather than complemented extra public spending. The OECD said:

In fact, many OECD countries with the highest growth in private spending have also shown the highest increase in public funding of education. This indicates that increasing private spending on tertiary education tends to complement, rather than replace, public investment. The main exception to this is Australia, where the shift towards private expenditure at tertiary level has been accompanied by a fall in the level of public expenditure in real terms.

Now we hear the Treasurer fondly quoting the OECD all the time. According to him, it is a great, reliable source and a very reputable outfit. Here is the OECD fingering Australia as one of the very few countries—the main exception amongst OECD countries—where there has not been an increase in public funding to complement increases in private funding of universities. I said at the outset of this debate on the Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005 that the higher education performance of this government is a scandal and that is best summarised by the OECD with that damning indictment.

We have to increase the number of university places, including HECS places, in Australia if we are to be and remain competitive in this, the Asian century. India alone will be the third largest economy in the world by about 2015. It has 500 million Indians below the age of 25 and it churns out more than six million university graduates a year, two million of whom speak English. China, nearby, produces 3.4 million university graduates a year. Australia produces 215,000 graduates a year. Of course, we are not the size of India or China, but 215,000 are far too few.

In 1970 only around eight per cent of Australian high school leavers went on to higher education. The introduction of HECS by the previous Labor government allowed the number of university places to be expanded, helping to double the proportion of school leavers going on to university from 15 per cent in 1983 to 30 per cent in 1999. But, following the coalition government’s changes to HECS and its unwillingness to adequately fund universities, all of the growth in commencing undergraduate numbers since the change of government in 1996—this is very important, Mr Deputy Speaker—has been in foreign full fee paying students. There has been no discernable growth in the number of Australian students going through our uni-
versities. All of the growth has been in foreign full fee paying students because cash starved universities have no option but to prefer foreign full fee paying students to Australian students. Surely that is a scandal of massive proportions in this country—that Australian universities must choose foreign full fee paying students over Australian students just to keep those universities going.

Of course we support the education export industry in Australia, but it should not be at the expense of Australian students—yet it has been in a most spectacular way, and the results are already coming in. Following the changes in 2005 universities responded in the expected way: they reduced the number of HECS places by more than 8,000 while increasing the number of full fee paying places by 2,500. The increase in HECS fees has contributed to 12,000 fewer applications for university study by Australian students. This is a damning indictment of this government. We need to harness the best of private resources and public resources to ensure that all young people have that great opportunity in life of a higher education. That is why I am proposing that we engage with the private sector in the development of the concept of human capital contracts, where the private sector itself can be involved in the financing of the higher education of Australian students, so we can actually create a society here in Australia in which every young person who works hard and has talent is able to go to university and not be deterred by massive fees. (Time expired)

Mr CADMAN (Mitchell) (1.47 pm)—Australian universities are attracting overseas students because of the quality of the education they provide. Higher education is an extremely competitive commodity in the world and students from Asia, from the Middle East and, in fact, from countries where there is a more than adequate university provision look around the world to find a university which best suits the components of their professional career—and Australia is a part of that competitive environment. Students from Singapore will look just as easily to the United States as to Europe, to Britain or to Australia. Why is it that we are attracting so many overseas students to our places of higher learning? It is because of the quality and the components of the courses that students coming to Australia can participate in. They are relevant to our environment, they are relevant to the South Pacific and South-East Asia, they carry a typical Australian practical bent and they are usually linked with a capacity to acquire the English language. That, as a package, is something that really attracts students to our shores.

Unless we remain competitive, in the sense that we continue to offer the very highest quality and the very best value in higher education in this competitive world, students will not want to come to Australia. What does that mean? That Australian universities would not carry the regard in the international community that they now carry. They would not be looked upon as great places of learning. They would not be regarded by businesspeople, governments and academia around the world as a place for an appointment, for a placement or for an opportunity to begin a career or a profession. That is what this Higher Education Legislation Amendment (2005 Measures No. 4) Bill 2005 is about. This legislation is about providing and building on the groundwork already laid down by successive governments, but it is only through this government that the competitive edge and the need to meet that competition and to survive in the world around us has been recognised.

It will not serve us well if the universities of Australia were only for Australian students, if our universities were not open to this competitive demand. What would it mean? We would become an isolated aca-
ademic backwater where our students would work within Australia and provide for Australia’s needs perhaps but would not be in demand, as they are at the moment around the world, to go into high positions of all types. The number of Australians running large corporations throughout the world, in Europe and the United States indicates the quality of our education. You can go anywhere in academia, in large corporations and in government and find Australians punching well above their weight because the quality of that individual and their training and their education is valued—and it is valued because they can make a contribution in the wider universal environment.

This legislation seeks to retain that advantage for this nation. I know there are some who would say, ‘We have a brain drain going on; we are losing some of the best people.’ Most Aussies come back—most of them say home is where they want to be eventually. They may marry overseas, they may have some of their family overseas, but eventually they want to come back here. What is it about Australia that attracts Australians back and attracts overseas students as well? It is the lifestyle, the environment and the attitude that Australians have of being able to cope with any problem and to use their initiative to solve anything that confronts them. This combination of environment, lifestyle and basic, quality education is what we must foster and what we must encourage. This legislation seeks to do that in a very mild way. Listening to the Labor Party, you would think that the sky is going to fall in. But what is the proposition in this legislation put forward by the Minister for Education, Science and Training, Dr Brendan Nelson? The proposition is that universities should offer a choice to their staff of whether they go onto salary and conditions set by an academic board or whether they should be given an individual contract, an Australian workplace agreement. Minister Brendan Nelson has said that universities need to do this to stay competitive to attract some of the best people from around the world.

But he has gone a step further and said, ‘Unless you have done that by the middle of next year, you are not going to have the advantage of increases to your budget supplied by the federal government.’ Universities are strange: we supply all the money and they come under state law—but that is Australia. So universities will not be able to gain the increases in funding of five per cent in 2006 and 7.5 per cent in 2007 unless they give that choice. It does not seem a difficult proposition, yet it is being opposed by the Australian Labor Party, who cannot understand why people should have choice and why they should not be regimented into a single stream of academic control.

We need to make this change. The Australian government has committed an additional $11 billion to higher education over the last 10 years, including through the 2003 package, Our Universities: Backing Australia’s Future. That seeks to provide the funds but, to listen to the Australian Labor Party, it is all about the money and not about the quality. It is not about the working conditions and your aspirations. It is not about your visions, your goals and what you are seeking to achieve; it is about how much money there is. That is not the total consideration. There must be more to it than that. If we are going to maintain our position in world education then we need to start with the questions: ‘What are our universities going to be offering over the next five or 10 years? Are they going to remain as competitive, relevant and significant in our region?’ That is what this legislation seeks to do.

On 29 April 2005 this provision was announced by the Hon. Kevin Andrews, the Minister for Employment and Workplace
Relations, and Dr Brendan Nelson, the Minister for Education, Science and Training. They announced these reforms, which are consistent with the government’s agenda. There is no coercion or force behind this; there is just the offer of choice for people about the circumstances under which they may choose to work. It adds greater flexibility than certified agreements. It allows universities to choose particular staff of great value or prize and to offer them—that is, the individual staff member—something a little different to what is currently being offered.

As with collective agreements, these Australian workplace agreements are subject to the no-disadvantage test, so a person coming in at a certain level will not get less; they will get the same or more. The no-disadvantage test applies to this choice being offered to people coming into Australian universities. This enhances the flexibility. It gives people an opportunity to broaden the courses offered. It means that they do not have to continue with courses that have lost relevance and are no longer significant in the Australian environment or in demand in the international community. That flexibility of staff is something that universities have been seeking for some time—the flexibility to be able to offer courses that are relevant to needs, that will respond to market pressures and that will respond to the demands of our immediate environment.

By November this year, all universities will need to meet the requirements in their workplace policies and practices, except where compliance with the requirements would be directly inconsistent with a higher education provider’s obligations under its existing certified agreements as at 29 April 2005. These are reasonable propositions. It is not a harsh process but one of encouragement to move in a certain direction and at the same time remain flexible and competitive. All universities will be required to comply with the workplace reforms and national government protocol every year after 2007, in order to maintain their funding.

I think the advantages are many. Australia needs to be committed to promoting the sustainability of universities, to enable them to attract, retain and reward the very best people in their academic staff. This legislation is in line with the government’s broad workplace relations agenda. The reforms are not driving down the conditions and wages of university employees or giving staff fewer rights than other Australians. The reforms are designed to support a workplace relations system in universities that is focused on greater freedom, flexibility and individual choice. There can be no argument about the benefits of that, and Australia is moving, in a general sense, in that direction. The workplace relations reforms that will be in place before the end of this year in the broader community will reflect the government’s wish and, I believe, the wish of most Australians that there should be greater freedom, flexibility and individual choice in our workplaces.

The Australian workplace agreements offer greater facility than the certified agreements commonly used in universities. Australian universities need to be able to attract and keep the very best staff and reward them appropriately so that those staff can provide for the graduates who add lustre to Australia’s reputation and who can take the positions that they go into so easily in any part of the world and return to Australia, making a wonderful contribution to our life here. If universities fail to attract and retain those talents, Australia is the loser. It is not the intention of this government to focus on a narrow union- or academic-driven agenda that restricts choice and options as regards staff and limits our opportunities and capacity to compete in the wider world of education. In response to issues raised by this sec-
tor, there have been two amendments to the legislation. I commend this legislation to the House.

The SPEAKER—Order! It being 2 pm, the debate is interrupted in accordance with standing order 97. The debate may be resumed at a later hour and the member will have leave to continue speaking when the debate is resumed.

QUESTIONS WITHOUT NOTICE

Workplace Relations

Mr BEAZLEY (2.00 pm)—My question is to the Acting Prime Minister. Acting Prime Minister, in the gallery today are a number of emergency service workers, firefighters, who risk their lives for others every day. Is the Acting Prime Minister aware that career firefighters in Victoria are currently entitled to up to eight weeks annual leave and 12 days sick leave a year, more than the government’s proposed minimum of four weeks annual leave and eight days sick leave per year? Will the Acting Prime Minister guarantee that under the government’s industrial relations changes these firefighters will not have their annual leave or sick leave reduced to the government’s minimum standard?

Mr VAILE—I thank the Leader of the Opposition for his question. I refer him to comments that the Prime Minister has previously made with regard to the development of this legislation and the government’s position, particularly those relevant to existing conditions that people have in their employment.

Foreign Aid

Mr FAWCETT (2.01 pm)—My question is also addressed to the Acting Prime Minister, Minister for Trade and Minister representing the Minister for Foreign Affairs. Would the Acting Prime Minister outline to the House how Australia is enhancing its foreign aid program? How can effective aid, good governance and trade liberalisation lift people out of poverty?

Mr VAILE—I thank the member for Wakefield for his question and his interest in this matter. Members would be aware of the announcement made by the Prime Minister in New York this morning with regard to our aid contributions into the future. The Australian government believes that it is the combination of aid, improved governance and trade liberalisation that provides the greatest opportunity for developing countries to lift themselves out of poverty. It is not one individual element or another. As the Prime Minister has announced overnight at the UN world leaders summit, Australia aims to double its foreign aid commitment to more than $4 billion a year by 2010. This is projected to take our commitment to 0.36 per cent of gross national income, the highest level since 1986. The government’s decision is a reflection of the generosity of the Australian people, as evidenced in the response by the Australian people to the tsunami disaster in Indonesia recently.

Importantly, the aid will be conditional on strengthened governance and reduced corruption. Australia is already taking a leading role to assist developing nations, particularly in our own neighbourhood, the Asia-Pacific region, as evidenced by our strong support for the RAMSI mission in the Solomon Islands and our enormous program of assistance in Papua New Guinea. However, as the Prime Minister has said, aid alone will not end poverty. It can make a significant contribution, but it will not end poverty.

On the trade front we have liberalised our markets, giving 50 least developed countries tariff-free access to the Australian market as a contribution to poverty alleviation, and we continue to push, through the Cairns Group, for a successful conclusion to the World Trade Organisation Doha Round, where re-
form of agriculture, so crucial for developing nations, has become a major sticking point.

To make the point again, Australia has announced that we propose to significantly increase our level of overseas aid. That will significantly help, particularly in our neighbourhood, the alleviation of poverty. But with that we need to see improved governance and as well as trade liberalisation—and, most importantly and particularly, trade liberalisation in the area of agricultural trade liberalisation—to help alleviate poverty and lift many of the least developed countries and developing countries out of that poverty trap that they find themselves in today.

**Education: Funding**

Ms MACKLIN (2.04 pm)—My question is to Minister for Education, Science and Training. I draw the minister’s attention to the OECD’s report *Education at a glance 2005*. Isn’t the minister ashamed that Australia is the only country in the OECD to actually reduce spending on university and vocational education as a proportion of GDP since 1995? Does the minister understand that public funding for tertiary education in comparable OECD countries has risen by 38 per cent since 1995, while public investment in Australia fell by eight per cent in that period? How does the minister explain that every student in the United States benefits from almost $4,000 more in government funding than Australian students? Minister, do you now accept the evidence proving the government is deserting Australian students?

Dr NELSON—I thank the member for Jagajaga for her question. The simple answer to the question is no. In fact, across the OECD, participation in higher education is measured differently. In this country we have increased over the last decade the proportion of Australians with a university education from nine per cent to almost 20 per cent of the Australian population. I might also add that in the last nine years the revenues available to Australian universities have increased more than $4 billion—and $2½ billion of that has come from the Australian government. On the question of universities and university funding, however, I was a little bit surprised this morning when I woke up and I read this in the *Australian* newspaper under the headline ‘Student “stocks” to bolster unis’:

Banks and superannuation funds would be called on to help students through university by offering “education stocks” under radical proposals to double the number of university places by 2020.

Ms Macklin—Mr Speaker, I raise a point of order on relevance. The question is all about public investment in our—

The SPEAKER—The minister is in order.

Dr NELSON—I am asked about the financing of Australian universities and the participation by Australians in education and university in particular, compared to other countries. The story in the *Australian* goes on to say that we should double the number of university places by 2020 and move to—

Ms Macklin—Mr Speaker, I raise a point of order on relevance once again. What the minister is going on with now has nothing to do with the question.

The SPEAKER—I remind all members that, when a lengthy question is posed, it does offer a minister the opportunity to answer all parts of that question. I would expect the minister to address the question.

Dr NELSON—On the question of financing education and university education, and the number of Australians who actually attend university: the *Australian* goes on to report that the member for Rankin apparently has a book that is forthcoming—one of a number of books. In it, he is proposing that he would finance participation in universities with a ‘human capital contract’. He says:
Under this proposal, you would basically enter into an arrangement with a private financier to cover tuition costs and living expenses.

He goes on to say:

This is an equity investment. What distinguishes equity from debt is you get a percentage of future earnings rather than a flat amount.

So here we have the member for Rankin proposing, firstly, to double the number of Australians in universities by 2020 and, secondly, that Australian students would actually go along to a private bank or superannuation fund to get the financing for it and that the bank or fund would make an equity investment in the education of the person taking it. In other words, the Labor Party, which today has a policy that bans Australians from paying full fees in their own universities, would propose to ban the government sponsored loan scheme for those students, yet the Labor Party backbench is proposing to send loan schemes out to the private sector.

I point out to the member for Rankin, firstly, that Labor Party policy is totally opposed to what he is proposing, but if he wants to have a chat to me about it I am happy to see him. The second thing he needs to appreciate is that, if we were to double the number of Australians going to university by 2020, we would need another 700,000 Australians in the system. By 2020, population growth will be less than half of one per cent. We are currently growing at 1.2. The Treasurer said in last year’s budget, in relation to the baby bonus: ‘Have one for yourself, one for your wife and one for your family.’ You would have to add to that: ‘Have nine for the universities.’ The Labor Party is totally obsessed with higher education. It wants to double the number of people going to university. We will be trawling through nursing homes saying: ‘You look all right. Why don’t you go back and do an economics degree?’ That is the kind of madness that is gripping the Labor Party: ideologues on the front bench who are opposed to the private sector and ideologues on the back bench wanting to send students off to banks.

Foreign Aid

Mr LAMING (2.10 pm)—My question is to the Treasurer. Would the Treasurer inform the House of the recent developments in relation to Australia’s aid and efforts to reduce global poverty?

Mr COSTELLO—I thank the honourable member for Bowman for his question. I can inform the House that in the current financial year of 2005-06 the Australian government has allocated $2.5 billion for international aid. That is a very substantial sum, and it compares to the allocation in the year 2000 of $1.6 billion. Since the year 2000-01, Australia has increased its international aid by over 30 per cent in real terms. That is aid which is going out to people in the Third World particularly who need improvement in services such as health and education. Overnight, the government announced that it is proposing to increase Australia’s aid commitment by 2010 to around $4 billion—that is, from $2½ billion up to $4 billion in 2010—where the aid to GDP ratio would be around 0.37 per cent on current expectations.

Australia focuses its aid program particularly in the Pacific and in our near neighbourhood. For example, under the Australia-Indonesia Partnership for Reconstruction and Development, Australia made the largest single aid commitment it has ever made in the history of this country when Australians opened their hearts and their wallets to help people affected in Aceh by the Boxing Day tsunami. That money is now being allocated to important projects not just in Aceh, where Australia is building hospitals and schools, but throughout the whole of Indonesia, as Australia uses that calamity to draw closer to our nearest neighbour and to
reach out a helping hand from a strong economy to help the people of Indonesia.

As we increase our aid, we will be focusing it on the Pacific in particular. Why? Because it is in the Pacific that Australia can make the biggest difference. The Pacific is Australia’s area of obligation and Australia’s area of influence. Many of the European countries which have been colonial powers in Africa naturally focus on Africa rather than on the Pacific, which is Australia’s specific area of interest and influence. So we will ensure that as that aid grows it is focused on areas where it is needed, it is done in a transparent way, it is done in a way which is accountable to Australian taxpayers, it gets past corrupt governments and it gets to the people who really need it.

The last thing I would like to say is that, with the increase in aid, we should never, ever forget this principle: as good as aid is, it can only go so far in helping developing economies and people in poverty. The biggest contribution that could be made to people in developing countries would be to reform the world trading order. Let me give you these figures. The World Bank has estimated that trade liberalisation would deliver an additional $350 billion to developing countries by 2015. This compares with an estimated total overseas development aid from all developed countries of around $79 billion in 2004. If you want some idea of proportion, overseas aid is delivering about one-quarter of what trade liberalisation could deliver to the developing world. Although Australia will increase its aid allocation, as announced by the Prime Minister, we should never take our eyes off trade liberalisation to allow economies to develop and to give better standards of living to those who are now living in poverty in the Third World.

Mr BEAZLEY (2.15 pm)—Mr Speaker, anything worth saying is worth saying twice—

The SPEAKER—The leader will come to his question.

Mr BEAZLEY—but my question, first, is to the Acting Prime Minister.

Mr Randall—Mr Speaker, I rise on a point of order. Earlier this year you ruled on preambles. The Leader of the Opposition continues to flout your ruling and I ask that you sanction him for that.

The SPEAKER—I have asked the Leader of the Opposition to come to his question.

Mr BEAZLEY—My question is to the Acting Prime Minister. Will the Acting Prime Minister guarantee that there will be no radical moves to strip Telstra workers out of rural and regional Australia following the passage of the legislation to fully privatise Telstra?

Mr VAILE—I thank the honourable Leader of the Opposition for his question on Telstra and the process of privatisation that is currently being debated. At the same time, it is important to note the overall Connect Australia package that the government has put forward as part of the policy setting for the future of telecommunications in Australia. It is very important that we recognise what that will do. Telecommunications services to rural and regional Australia will be significantly enhanced by the injection of $3.1 billion. It is important also to note that that will require the commitment and the investment of Telstra into the future. The conditions that we are putting on the licensing arrangements for the work that they have to do to maintain those levels of services across Australia, and particularly in regional Australia, will obvi-
ously require a very large work force as far as Telstra is concerned.

I make the point that, yesterday, the Australian Labor Party—both here and in the other place—asked questions about some report on the staffing of Telstra into the future. Those questions were based on some commentary in the media over a week ago. It forced Telstra to release a statement yesterday which said that there was no such report. Telstra sent a letter to the ASX which, in part, said:

Telstra has not taken any decision to cut 10,000 jobs as stated by Senator Conroy or 14,000 jobs as reported in the media. Senator Conroy has referred to a 104 page document. Telstra is not aware of the specific document referred to. There are no documents of which Telstra is aware recommending job cuts of the magnitude referred to by Senator Conroy.

I table the letter from Telstra. I repeat: the commitment the government is making to the future of telecommunications across Australia is to ensure there is adequate investment in future technology so that services are maintained, particularly in regional Australia, and, as a result, there will be greater competition in the telecommunications sector across Australia.

**Telecommunications**

Mr NEVILLE (2.19 pm)—My question is addressed to the Acting Prime Minister. Would the Acting Prime Minister inform the House of the importance of telecommunications to rural and regional areas? Would he also inform the House of any alternative views?

Mr VAILE—I thank the honourable member for Hinkler for his question. Ever since he joined this place, the member for Hinkler has taken a very keen interest in telecommunications as Chair of the Standing Committee on Transport and Regional Services, which looks after the interests in this area. The member asked about the importance of telecommunications Australia-wide but particularly in rural and regional Australia. This government takes the issue of telecommunications and its importance to Australians, particularly those in rural and regional Australia, very seriously. I point out again that the Connect Australia telecommunications package will give Australians access to first-class telecommunications services. The $1.1 billion roll-out of broadband and mobile phone services will start on 1 January 2006. When was the last time you ever heard of an Australian Labor Party policy proposal that spent that sort of money on telecommunications—over and above that which is being invested by the major provider and other providers? When was the last time you heard it? You have not.

The package also delivers a $2 billion communications fund. Earnings from that fund will be available to provide new communications technology for rural Australia into the future. It will provide a more robust regulatory framework to give assurance to consumers across Australia about their services. Importantly, it enhances the competition framework and further strengthens safeguards to protect consumers. Yesterday afternoon in Canberra, this package received the support of the National Farmers Federation. This is quite significant because the NFF have been in active consultation with the government for many months on this package. They have been working constructively with the government to ensure that their members and those electors across regional Australia receive what they deserve.

Mr Martin Ferguson—you sold them out.

Mr VAILE—that is not what Peter Corish said. He did not say that they were sold out; he said he supports the package. I quote from the NFF release, which said:
NFF believes that the proposed legislative package, associated funding and assurances from Government in regard to programs and other matters, will secure quality affordable telecommunications services now and into the future for farmers and rural Australians, irrespective of the ownership of any provider.

NFF supports the passage of the current package of Telecommunications Bills through Parliament. That is the peak farm body of Australia out publicly yesterday supporting this package because they agree with the government. They agree with the government that this will deliver a much improved telecommunications system to rural and regional Australia tomorrow and well into the future, with the guarantees attached to that. I table a copy of their press release.

DISTINGUISHED VISITORS

The SPEAKER (2.23 pm)—I inform the House that we have present in the gallery this afternoon members of a parliamentary delegation from the economic affairs commission of the National Assembly of the Republic of France. On behalf of the House, I offer our guests a very warm welcome.

Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE

Telstra

Mr BEAZLEY (2.23 pm)—My question is to the Acting Prime Minister and follows the one I asked previously on the existence of radical plans to cut the Telstra work force. I refer the Acting Prime Minister to an email sent by Telstra’s Chief Operations Officer, Mr Greg Winn, to other Telstra executives on 16 August 2005. It states in relation to Telstra job losses, ‘Do not expect any radical moves to strip people out until we are ready.’ Acting Prime Minister, isn’t Telstra waiting for the Telstra bills to pass before cutting thousands of jobs across Australia? Why won’t you come clean before the bills are passed?

Mr VAILE—Can I refer the Leader of the Opposition to the correspondence released publicly by Telstra, not private emails. There should be a question asked about how the Leader of the Opposition got a copy of the email.

Opposition members interjecting—

Mr VAILE—That is a matter on the public record in terms of what Telstra proposes to do. All I have to say in response to the Leader of the Opposition with regard to employment in Telstra is that, under the guidance of the Leader of the Opposition when he was the relevant minister during the eighties and nineties, there were 20,000 jobs cut from Telstra’s predecessor, Telecom, in New South Wales alone.

Business Reforms

Mr BROADBENT (2.25 pm)—My question is to the Treasurer. Is the Treasurer aware of recent international reports on the ease of doing business in Australia? What reforms would improve opportunities and what are the barriers to those reforms?

Mr COSTELLO—I thank the honourable member for McMillan for his question. Yesterday the World Bank released a publication entitled Doing business in 2006: creating jobs. It ranked 155 economies around the world on the basis of 10 indicators. Of those 155 economies, it ranked Australia as the sixth-best business-friendly economy in the world. There were five in front of Australia: New Zealand, Singapore, the US, Canada and Norway. There were 149 behind Australia, including such economies as the UK, Japan, Sweden, Switzerland and Germany.

Australia ranked very well on starting a business, which was the second easiest in Australia of anywhere in the world; on getting credit, where we ranked very well; and on business taxes. The survey found that a medium sized company in Australia had to spend 107 hours and pay 37 per cent of gross
profit in taxes. The OECD average was 192 hours, paying 46.1 per cent of profit in taxes.

Areas where Australia could improve its business environment are in securing rights to property, investor protection, and hiring and firing workers. That is what this government proposes to do to improve industrial relations and make Australia an even better place to do business.

I am asked what the barriers to reform in Australia are. The largest barrier to reform in Australia is the Australian Labor Party.

Mr Tanner interjecting—

The SPEAKER—Order! The member for Melbourne!

Mr COSTELLO—The Australian Labor Party is opposing industrial relations reform and it is opposing welfare to work reform, like it opposed the introduction of broad based indirect tax, balancing the budget, reducing debt and the Australian monetary policy.

Mr Tanner interjecting—

The SPEAKER—Order! The member for Melbourne is warned!

Mr COSTELLO—Members may wonder why the Australian Labor Party stands against reform. I understand that an important publication is coming out this weekend, written by the former leader of the Labor Party. According to last night’s 7.30 Report, the author of that learned tome wrote a letter to a Labor backbencher recently which said: The numerous snakes, freaks ... and sewer rats in the caucus have had their say—

Mr Tanner—He did not have dogs on the list. Mr Speaker, I rise on a point of order. This is entirely irrelevant to the question that was asked by the member for McMillan. I urge you to bring the Treasurer—

The SPEAKER—Order! The member for Melbourne will resume his seat. The Treasurer is in order.

Mr COSTELLO—He goes on to say: A lot of people will be unhappy about the truth but quite frankly I couldn’t give a rat’s ... about them.

He says to this backbencher—listen to this: Good luck in the future with your work and thanks again for your support while I was leader of that thing. Kind regards, Mark Latham.

‘That thing’ is the description of the modern Labor Party given by the former Labor leader—‘that thing’. It is ‘that thing’ that stands against reform in Australia. It is ‘that thing’ which has opposed every step that we have taken. It is ‘that thing’ which is stopping a competitive business environment. Let me say, Australia would be much better off without ‘that thing’.

Telstra

Mr McMULLAN (2.30 pm)—My question is addressed to the Acting Prime Minister. Acting Prime Minister, did the ACCC make last-minute representations to the Minister for Communications, Information Technology and the Arts proposing amendments to the Telstra sale bills because the ACCC believes the bills do not properly protect competition and the interests of consumers? Isn’t it the case that, while parliament has been considering the Telstra sale bills, the ACCC has been arguing that the regulatory regime and anticompetitive features of the bill are deficient. Has the Acting Prime Minister told his National Party colleagues that, in the view of the ACCC, the Telstra bills are flawed?

Mr VAILE—I thank the honourable member for his question. I am sure that the Minister for Communications, Information Technology and the Arts has possibly had a number of conversations with the ACCC. I have had a number of conversations with the ACCC, and I am not aware of the particular briefing that the member for Fraser refers to.
I will seek information from the minister responsible.

What have I told my National Party colleagues? I have told them how important it is that we see this money invested in regional Australia, how important it is that we see this level of investment in new technology in rural and regional Australia, to ensure that those services are there in the future and to ensure, as a part of this package, that there is an underpinning of those services in terms of accessibility, as well as the regulatory regime that is put into place.

Ms Gillard—Mr Speaker, will the Acting Prime Minister give an undertaking to provide that information before the Senate finalises its vote today?

Indonesia: Terrorist Attacks

Mr KEENAN (2.32 pm)—My question is addressed to the Attorney-General. Would the Attorney inform the House of developments in the trials of those accused of involvement in the bombing of the Australian embassy in Jakarta one year ago?

Mr RUDDOCK—I thank the honourable member for Stirling for his question. Obviously we welcome the demonstration of Indonesia’s commitment to fight terrorism, with the conviction yesterday of Iwan Darmawan, alias Rois, for his role in the bombing of the Australian embassy in Jakarta on 9 September. The South Jakarta District Court has sentenced Rois to death for his involvement in the bombing. That is the most severe sentence possible. The Australian government, of course, does not support the death penalty. However, given that Rois is Indonesian, it is a matter for Indonesia and the Indonesian legal system as to what penalties are given to people who commit such heinous acts of this kind. He was a key player in the attack on our embassy. He recruited trained personnel, raised funds and materials for the bomb making and planned the logistics of this terrible crime.

I am particularly delighted that Indonesia has demonstrated its commitment to fighting terrorism by pressing on to ensure this conviction. The conviction underlines its determination to prosecute to the full extent of the law those involved in terrorism and to ensure that they are caught. Its successful record in doing so and in collecting evidence and obtaining convictions shows that Indonesia is on target to deal with terrorism within its own borders.

Rois is the fourth terrorist convicted for his role in the embassy bombing, and two other suspects are currently on trial. Forty people have been tried and convicted Indonesia-wide for their roles in relation to the Bali bombings. Over 300 Jemaah Islamiah members and other suspected terrorists have been arrested throughout the region. In this matter we work closely with Indonesia and other governments in the region through cooperation in areas such as law enforcement and maritime border and transport security. This counter-terrorism cooperation is unprecedented in its scope and intensity. But we are not complacent. We know that there are those who continue to plot, and we are committed for the long haul in protecting Australians and their interests.

Telstra

Mr WINDSOR (2.35 pm)—My question is to the Acting Prime Minister. Acting Prime Minister, the National Farmers Federation president, Mr Peter Corish, said yesterday—and I note that you have the press release—that the NFF has received a guarantee from the government on future pricing parity for both basic telephone and broadband services for country and city consumers. Could the Acting Prime Minister clarify where that guarantee on parity for country people is in the legislation?
Mr VAILE—I thank the honourable member for his question. It is good that he was paying a great deal of attention to what the NFF had to say. I refer the honourable member to the minister’s ministerial statement to the Senate; I think he will find it there.

Health

Mr HAASE (2.36 pm)—My question is addressed to the Minister for Health and Ageing. Would the minister update the House on what measures the government is taking to make the health system sustainable in the long term? Are there any alternative policies?

Mr ABBOTT—I thank the member for Kalgoorlie for his question. Thanks to the policies of the Howard government, the GP bulk-billing rate in Kalgoorlie has gone up by five percentage points over the last 12 months. As its record shows, this government will do what is necessary to make our great Medicare system sustainable. There is no such thing as free medicine, and even in the very best of causes it is necessary to ensure that taxpayers are getting value for their dollars. That is why the government has increased the co-payment for the PBS. That is why this government never pretends that there can be 100 per cent bulk-billing. That is why the government has introduced a mandatory price cut for generics. That is why the government is insisting on a $460 million pharmacy saving over the next five years.

The government is getting support from some unlikely quarters. The member for Rankin is not much good on education, but he knows what he is talking about—he has got something—when it comes to health. I quote:

We can’t afford to have so many older Australians having access to health care at zero cost or very very low cost. Budgetary circumstances dictate that we won’t be able to provide free health care for all Australians.

That is a bit of sense from the member for Rankin, which guarantees his permanent exile on the Labor back bench because Labor’s policy is something called ‘Medicare Gold’—a copper-bottomed con job with a $4 billion funding black hole.

I went on to the Labor Party’s policy web site this morning—and there were pretty thin pickings. I discovered that their policy on Telstra was 40 words and their policy on Tasmanian forests was 69 words; they had 152 words on national security but 172 words on Medicare Gold—and that is the one policy that should not even be there, because the Leader of the Opposition said in January:

Medicare Gold disappeared with Mark.

You know—the ghost that is coming back to haunt the Labor Party this weekend. The Leader of the Opposition thinks he can control petrol prices by having the 46th inquiry in 15 years, he thinks he can fix Telstra with a bit of good old-fashioned nationalisation, he thinks he can win the Ashes by changing the Prime Minister, and he cannot even take Medicare Gold off his own web site. I say this to the Leader of the Opposition: he will be judged, not on what he tells other people to do but on what he does himself. I call on the Leader of the Opposition to prove he is a tougher leader than the member for Lalor by getting her policy off his web site.

Fuel Prices

Mr SWAN (2.40 pm)—My question is to the Treasurer. Is the Treasurer aware that the consumer confidence index has recorded a 13-point drop, the eighth biggest drop in the history of the survey? Does the Treasurer accept that this is due largely to the impact of petrol prices? When will the Treasurer direct the ACCC to investigate petrol price goug-
ing, as suggested by the Labor Party 51 days ago?

Mr COSTELLO—I have seen the Westpac consumer confidence index for the month, and it is true that consumer confidence has declined to something like the long-term average. In the last couple of months there have been enormous volatilities, with a big decline after the interest rate rise in March; a huge rise after the budget in May; and a recent decline, which could well be related to petrol.

As I said yesterday, petrol prices are punishingly high. These high petrol prices are punishing consumers. High petrol prices are not good for business, high petrol prices are not good for the government, and high petrol prices are not good for the economy. If anybody is welcoming high petrol prices, let me suggest to them that it is not in the interests of the Australian consumer or in the interests of Australian business. Unfortunately, as we know, the reason why petrol prices are increasing is the world oil price.

As to improper conduct by any oil company or service station operator or retailer in Australia, the ACCC is instructed to take action against them. It has full powers to take action against them. It does not need any recommendation from the government, but I give it on a daily basis. As soon as there is any evidence whatsoever of any improper market conduct, the ACCC will investigate and, if there is a breach of the law, it will take a prosecution and, if there is a conviction, it has heavy penalties at its disposal. It needs no instruction from me to do so; but, as I say on a daily basis, the moment it finds any evidence, it should do so.

Unfortunately, any action by the ACCC in Australia is not going to reduce the world oil price. Nor is it going to increase world refining capacity. We wish that it were the case that petrol prices could be reduced by a simple investigation or prosecution by the ACCC. As the member for Rankin said—and I know he is getting a lot of favourable mentions, and unfavourable ones:

It may seem like clever politics to suggest to Australians that there is an easy fix to world oil prices, but Australians are too clever for that. They know that petrol prices are up around the world.

They know that petrol prices are up around the world because of world oil prices, and they know that until such time as world oil prices come back down or refining capacity increases we will, unfortunately, have to live with high petrol prices. That is in nobody’s interests, but it will certainly not be ameliorated by opportunistic and cheap politics—unfortunately the kind in which the member for Lilley excels.

Education: Schools

Mr TICEHURST (2.43 pm)—My question is addressed to the Minister for Education, Science and Training. Would the minister inform the House of the government’s policy to support choice in Australian schools? Are there any alternative policies? How might they work?

Dr NELSON—I thank the member for Dobell. It is great to have him here in the parliament doing a wonderful job for the people of Dobell. All Australian parents make extraordinary sacrifices for their children. This government believe that in education, in schooling, all parents should be free to choose the kind of school that they think best suits the aspirations that they have for their children and the needs of those children. We strongly believe that parents of the 1.1 million children in Catholic and independent schools throughout this country, whilst recognising they will receive less public funding for their children’s education if they choose to send their children to a Catholic or independent school, should receive
financial assistance in support of their children’s education, and it will be largely according to the means of the families.

Today is 14 September 2005. One year ago today the landscape for education in this country was changed when the then leader of the Australian Labor Party, Mr Mark Latham, supported by the deputy leader of the Australian Labor Party, announced that funding would be cut to 178 non-government schools in Australia, adversely affecting the education of 160,000 children. For the first time in Australia, the Australian Labor Party was promoting a policy that would actually cut the funding for the education of Australian children. What we had was a policy presented that would punish parents for sacrifices that they make for their children.

It is important that members understand that it was not a list confined to 178 schools. The way in which the list was intended to work would be that over a six-year period all non-government schools in Australia would hit what the Labor Party described as a resource index. Once the total level of funding for a child was reached, the funding to that school would increase at a rate half of what it does today.

During the election campaign, at a meeting of Brisbane Catholic parents and friends on 16 September, the deputy leader of the Australian Labor Party was asked if Catholic schools in Australia would reach this resource index. She said: ‘We don’t expect any Catholic systemic school to reach the standard until 2012.’ In other words, Catholic systemic schools in Australia would reach Labor’s hit list six years after the implementation of the policy. It is worth remembering that on 28 September last year a number of leaders of churches in Australia, led by Cardinal George Pell, said of Labor’s policy in part:

Labor’s proposal to effectively cap government funding to schools within the non-government schools sector is regrettable.

They went on to say:

We express our concern at the lack of clarity in Labor’s proposal and the potentially divisive mechanism of redistributing funds within the non-government schools sector.

This policy today is Labor’s policy. Australians need to understand that in two years time, if they elect a Beazley led government, they will be voting for a government that will be cutting the funding to Australian schools. The deputy leader of the Labor Party affirmed it was Labor’s policy again after the election last year on 30 November. She said: ‘Federal Labor will retain its schools policy.’

One year after the introduction of Labor’s policy, Labor’s hit list would move from 178 schools, affecting 160,000 students, to 272. After one year a quarter of a million Australian children would have the funding for their education cut under a Labor government. This government have a hit list. We have 8,500 schools on it that are getting up to $150,000 to support children’s education. The Labor Party has a hit list. Under no circumstances will we reduce the funding for the education of Australian children.

DISTINGUISHED VISITORS

The SPEAKER (2.48 pm)—I inform the House that we have present in the gallery this afternoon the Hon. Dr Michael Wooldridge, a former minister. On behalf of all members I extend to him a very warm welcome.

Honourable members—Hear, hear!
QUESTIONS WITHOUT NOTICE

Telstra

Mr SWAN (2.48 pm)—My question is to the Treasurer. I refer the Treasurer to the Prime Minister’s remarks in this place last week where he said:

I think it is the obligation of senior executives of Telstra to talk up the company’s interest not to talk them down. That is a view which I have communicated very directly to the chairman of the board on behalf of the government.

Does the Treasurer agree with the Prime Minister’s statement?

Mr COSTELLO—As I have said on numbers of occasions, it is the obligation of directors to act in the best interests of their company. What that means is ‘in the best interests of their shareholders’. Directors are appointed by shareholders to so manage the company as to derive profit and to increase value.

Having said that, the Corporations Law, and indeed the common law, puts other obligations on directors—a duty to disclose to the market anything that may have a material effect on a share price, a duty to act honestly in the discharge of their duties, a duty not to improperly use their position for personal advantage, a duty not to improperly use information for personal advantage. There is a common law duty and there is a statutory duty, but the principal duty of directors is to act in the interests of a company.

Workplace Relations

Mr RANDALL (2.50 pm)—My question is addressed to the Minister for Employment and Workplace Relations. Would the minister update the House on support for workplace relations reform and a national workplace relations system? Are there any alternative points of view?

Mr ANDREWS—I thank the member for Canning for his question and his interest in the continuing reform of workplace relations in Australia. I note, in the context of his question, that today there is a delegation of unionists—led by the former secretary of the Victorian Trades Hall Council, Mr Leigh Hubbard—touring parliament and meeting with MPs. I was fortunate enough to obtain off the back of a truck the lobbying document for this delegation headed ‘Discussion point for lobbying’. It contains such detail as where they will be based in Senator Gavin Marshall’s office, how they find their way there and a lot of minutiae, including that, at the point of the lobbying exercise, they should hand up a copy of the joint union statement. I knew that the union movement are into pattern bargaining; I did not know they were now into pattern lobbying.

This document contains a number of falsehoods. It says, for example, that ‘economic prosperity has little if anything to do with industrial relations changes’. I do not know where these unionists got this advice from. It certainly was not from the IMF, who told us yesterday in their report—

A government member—Or the OECD.

Mr Swan—I wouldn’t be quoting too many OECD reports if I were you.

Mr ANDREWS—Or the OECD or any other independent bodies that have looked at that and said that, if Australia wants to continue its economic growth, then a key component of this is changes and reforms to the industrial relations system. They certainly did not even get it from the Secretary of the ACTU, Greg Combet, who, on 6 July, told the National Press Club, amongst other things:

Since its inception in 1994, decentralised collective workplace bargaining ... has unleashed enormous productive potential.

He went on to say that industrial relations reform is part of the success. So they did not get this information from Mr Combet. Other
falsehoods in the document include saying that people will be undermined because awards will go. That is quite plainly false; the award system will remain in place. They say that penalty rates, public holidays and so on will go; yet they will stay. But there is one kernel of truth in this document. It says:

Even Labor will be tempted to refer the powers in the future.

What we have in this document—this ‘Notes for lobbying of coalition MPs’, this document from the union movement—is a statement that, in the future, even the Labor Party will be tempted to refer their powers to a national system. This points out what a number of union leaders have said—what the likes of Bill Shorten and Richard Marles have said: that it makes sense to have a national system of industrial relations in Australia. Even the member for Perth has acknowledged the economic benefit of having one national system of industrial relations in Australia.

On top of that, just this week we had the state industrial relations minister in New South Wales, John Della Bosca, say that he would give consideration to giving up state jurisdiction over both occupational health and safety and workers compensation. It is good enough for Mr Della Bosca in New South Wales, the industrial relations minister, to say that we can have one national system for occupational health and safety and workers compensation, yet others say it is not a good idea to have a national system for industrial relations. The reality is that this document once again points out what everybody knows: a national system of industrial relations is a policy whose time has come in Australia.

Mr ANDREWS—The only people standing in front of that for political reasons are the Australian Labor Party. What I suggest these unionists today would be best spending their time doing is getting to the door of the Leader of the Opposition and lobbying him to get on board with what we know is a good idea.

Telstra

Mr BEAZLEY (2.55 pm)—My question is to the Treasurer. Is the Treasurer aware that the Chairman of ASIC, Mr Jeffrey Lucy, has stated:

Last evening I advised the Parliamentary Joint Committee on Corporations and Financial Services that the comments attributed to the Prime Minister regarding obligations of Telstra executives were included among those matters being considered—

that is, in an investigation by them into the provision of information to the markets. Is he further aware that Mr Lucy said:

I can categorically state that ASIC is not undertaking any investigation of the Prime Minister.

Can the Treasurer advise the House whether he or any member of his office or department or the Prime Minister’s office or the Acting Prime Minister’s office contacted ASIC in relation to this after Mr Lucy’s original evidence last night suggested that the Prime Minister was being investigated?

Mr COSTELLO—I am aware of those statements because ASIC has released a media release today which says them. I will come to the gravamen of the allegation that is put in a moment, but I can confirm that certainly my office has been in touch with Mr Lucy. I can also confirm that I have spoken to Mr Lucy today. You would have expected me to do so, so that I could actually answer questions in relation to the matter.

Mr Tanner—So you’ll get evidence to get Howard—
The SPEAKER—The member for Melbourne will remove himself under standing order 94(a).

The member for Melbourne then left the chamber.

Mr COSTELLO—I have spoken to Mr Lucy today. The reason why I would speak to Mr Lucy today is so that I would be in a position to answer any questions which might be asked of me. So I am in a position to answer any questions which might be asked of me.

Ms Gillard interjecting-

Mr COSTELLO—We did not actually discuss the investigation as it turns out. I regret to inform—

Opposition members interjecting-

Mr COSTELLO—We did not actually discuss the investigation as it turns out. I regret to inform—

Mr Price—Mr Speaker, on a point of order: members should be referred to appropriately by their electorates. There is no exemption from the standing orders for the Treasurer.

The SPEAKER—I am sure that the Treasurer is aware that he must refer to members by their titles.

Mr COSTELLO—I should have referred to her as the member for Lalor. I come to the gravamen of the question. I presume that the implication of the question is that Mr Lucy has somehow been suborned into issuing a false press statement. You can impute improper motives to me—you do regularly— but can I say this: to impute an improper motive to Mr Lucy, to suggest that Mr Lucy, who is a statutory officer, who is a law enforcement officer—

Ms King—What did he say?

The SPEAKER—Order! The member for Ballarat is warned!

Mr COSTELLO—could somehow act in breach of his statutory duty, engage in illegal conduct or turn a blind eye to an investigation is an imputation against Mr Lucy which is not warranted and does not befit a leader of the opposition.

Mr Lucy exercises his powers under statute. If Mr Lucy believes that somebody should be investigated, Mr Lucy investigates that person. If Mr Lucy believes that somebody has not done anything which warrants investigation, then Mr Lucy makes that clear. I table Mr Lucy’s statement. I stand by Mr Lucy. He is an honourable man who is exercising his statutory duties in accordance with the statute and doing a very good job.

Superannuation

Mrs DRAPER (3.00 pm)—My question is addressed to the Minister for Revenue and Assistant Treasurer. May I first thank the Speaker for his kindness in presenting me with an Australian made wool scarf to keep me warm to replace my Crows scarf, which has been banned by your good self. Thank you, it was much appreciated.

The SPEAKER—The member for Makin will come to her question.

Mrs DRAPER—Would the very kind Minister for Revenue advise the House of initiatives the government is taking to help Australian women save for their retirements? Is the minister aware of proposals that will limit these initiatives?

Mr BROUGH—I thank the member for Makin. She looks very smart in her scarf, as she did the other day. She is a great Crows
supporter. Since the Lions are not there, I wish her all the best in her support. We brought to the House’s attention yesterday the wonderful success of the government’s co-contribution and the fact that those who sit opposite are opposed to it. The member for Makin will be pleased to know that there were 5,700 recipients of the Howard government’s co-contribution in the first year—but, most particularly, she would be interested to know that 3,650 of those were women. This is a very important message. It is not only people in the work force but people who are not in the work force who should be contributing to their own superannuation, whether they are getting the co-contribution in the work force or whether they are contributing as they leave the work force, perhaps to have a family.

The problem that we have with the Labor Party is that not only are they opposed to the co-contribution of the Howard government, and will deny all of these Australians $1.50 for every $1 that they put into their own superannuation accounts, but they actually have an active policy, a backward-looking policy, a policy that has no place in a modern Australia, not to allow people who are not in the work force, particularly women who have left the work force to have a family, to make a contribution whilst they are having a family.

I turn to page 4 of the Labor Party policy. It has an author on the front page, I note—one that we will probably hear from again shortly.

Mr Costello—It’s Latham, isn’t it?

Mr BROUGH—That is correct, Treasurer. He is there; someone that they are all hoping they will forget. I am sure he will come back to us very clearly very soon. Maybe they are going to dump the policy as they dumped their leader, because it says in here:

Labor will reverse the Howard government’s budget measure which removed the work test for individuals under age 65 to contribute to superannuation.

That means that, when many of the women in the member for Makin’s electorate go to have a family, they can no longer contribute to their own superannuation. That is Labor policy in a modern Australia: you should be denied a right to make a provision for your own retirement.

I ask the member for Sydney, who had nearly 1,000 women contribute to the co-contribution: do you, as the representative of women on behalf of the opposition in this place, believe that women should not be able to make a provision to their superannuation accounts at a time when they are out of the work force? Or maybe the member for Jagajaga. The member for Jagajaga had over 3,000 women make a co-contribution. So she not only wants to deny them that; she wants to deny them the right to also have a chance to put money into their retirements when they are not in the work force. And the member for Lalor. And of course the member for Lilley.

The member for Lilley had 5,063 women contribute to the co-contribution. That is a fantastic effort, I have to say—I congratulate the women up there for doing that. But I wonder whether he has mentioned to the member for Griffith, his neighbouring seat, that the women who work in the Mater Hospital, or perhaps to the member for Brisbane, his other neighbouring seat, that the women who work at the Brisbane Women’s Hospital should be denied the right to be able to contribute to their own superannuation.

I draw their attention to a press release by HESTA, the specialist super fund for health and community services. They have some 500,000 members and they report that there has almost been a doubling of their almost
exclusively female work force and contributors who have made a contribution in the second year of the Howard government program—something the Labor Party says they cannot and should not do. This is a shame on the Labor Party. Their policies are, like they are, dinosaurs that belong in the past.

Telstra

Mr BEAZLEY (3.05 pm)—My question is to the Treasurer and follows the answer he gave to my previous question. Given that Mr Lucy has confirmed that ASIC is still investigating the continuous disclosure obligations of Telstra, will the Treasurer ensure that the ASIC investigation is able to extend to all people, including himself and the Prime Minister, who have had access to market sensitive information or who were present at the 11 August 2005 meeting with Telstra?

Mr COSTELLO—I have no objection whatsoever to ASIC investigating every single person that they think is relevant—none whatsoever. I will make this point: the obligation on disclosure to the Australian Stock Exchange falls on a company. It is a company that is in possession of information that would have a material effect on the share price that has an obligation to disclose.

Let me say this entirely clearly too: if Telstra were in possession of information that would have had a material effect on the share price, it had an obligation to disclose it. If it did not, then there ought to be an investigation. But, as I understand the situation, Telstra says it was always observing its duties that it had disclosed to the Stock Exchange such information as would have a material effect on the price. Telstra says it was complying. If there is a suggestion that it was not, you have an investigation—that is what ASIC does. We welcome the investigation. ASIC will investigate and in due course will announce its results. I would encourage ASIC to make inquiries of anybody that it believes can assist in relation to that investigation. It ought to be open, it ought to be transparent, it ought to be thorough—there is no objection from this side of the parliament to that.

As it turns out, ASIC does not believe that the Prime Minister has any obligation in relation to disclosure and has issued a statement to that effect. I would have thought that was obvious. The Prime Minister is not a director of Telstra, he is not an executive of Telstra and he does not discharge a function on behalf of Telstra; neither does he come under the Corporations Law, which requires the company itself to disclose. I would have thought that was pretty obvious; the statement makes it clear. But, if Mr Lucy wants to investigate anybody, he knows that he does not need an instruction, because he is a statutory officer. He knows that he has the power to do it. He knows that he has the protection to do it. He knows that he has the investigative powers to do it. He knows that he can take evidence. He knows that he has rights in relation to civil liberties. And he will do it. I know him to be an honourable man who will discharge his statutory duties, as this government would expect.

Workplace Relations

Mr VASTA (3.08 pm)—My question is addressed to the Minister for Small Business and Tourism. Would the minister advise the House how the government’s proposed exemptions from unfair dismissal laws will assist small business?

FRAN BAILEY—I thank the member for Bonner for his question and I thank him for being prepared to stand up for the thousands of small business people he has in his electorate. He, like every member on this side of the House, understands that 95 per cent of all businesses in this country are small businesses; that they are a vital source of economic growth, jobs and innovation; and that
they have a very real concern about the current unfair dismissal laws. In fact, the Australian Business Ltd survey found that 65 per cent of those surveyed either had experienced or knew of people who had experienced speculative unfair dismissal claims and that a further 37 per cent reported that the practice of paying go-away money occurs regularly. This government, in its industrial relations reforms, will exempt from these current unfair dismissal laws businesses that employ up to 100 people; those businesses will be exempt. It is only this government that will deliver a flexible workplace for small business and for all businesses.

We know that the opposition does not support such flexibility. But I can advise the House that there is at least one member of the opposition who believes that reforming unfair dismissal claims is good for small business. I can advise that that is the member for Hunter. I can further advise that the member for Hunter has been prepared to be on the record for a long time—in fact, since 1998—on this. I can tell you, Mr Speaker, that in an interview, the member for Hunter said:

... my wife consistently tells me she could afford to put on one more person or would like to put on one more person, but is fearful of unfair dismissals ...  

I say to the member for Hunter: tell your wife that this government is fixing the problem.

Mr Vaile—Mr Speaker, I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Telstra

Mr VAILE (Lyne—Acting Prime Minister) (3.11 pm)—Mr Speaker, I seek the indulgence of the chair to add to an answer I gave earlier in question time.

The SPEAKER—The minister may proceed.

Mr VAILE—I was asked a question by the member for Fraser about alleged last-minute representations to the Minister for Communications, Information Technology and the Arts proposing amendments to the Telstra sale bill, because the ACCC believed that the bill did not properly protect competition in the interest of consumers. In adding to that answer, I will just make a few comments.

The ACCC has been extensively involved with the government in developing the operational separation arrangements. It is no secret that the ACCC has indicated in the past that it has concerns about the structural arrangements in the telecommunications industry. At the Senate Environment, Communications, Information Technology and the Arts Legislation Committee hearings on Friday 9 September 2005, the ACCC indicated that it had considered alternative models for operational separation. At that committee hearing, the ACCC also indicated that it believes a number of matters relating to operational separation will need to be carefully addressed during the process of developing the operational separation plan. The ACCC acknowledged that the model can work and said:

The government’s proposed model for the operational separation of Telstra maintains the balanced approach of the existing regulatory regime. The proposal recognises that Telstra is in the unique position, through its monopoly over the local access network, of being able to stifle competition and innovation by frustrating its competitors’ investment plans. For this reason, the ACCC welcomes changes which would increase transparency and equivalence in the way Telstra provides key access services to its own downstream operations relative to those of its competitors.

Senator Brandis stated:
... it strikes me that if the government’s announced model has the likely outcome that you have anticipated, it is not just going to be good for Telstra; it is going to be good for the entire industry.

Telstra Commissioner Mr Willett replied:
And the economy as a whole.

Senator Brandis then asked:
And consumers?

Mr Willett confirmed:
And consumers

and ACCC Chairman Mr Samuel confirmed:
And consumers.

I think that makes it quite clear.

**Immigration**

Mr JOHN COBB (Parkes—Minister for Citizenship and Multicultural Affairs) (3.14 pm)—Mr Speaker, I seek the indulgence of the chair to add to an answer.

The SPEAKER—The minister may proceed.

Mr JOHN COBB—Yesterday the member for Watson threw an incredible slur upon the Department of Immigration and Multicultural and Indigenous Affairs and accused it of falsifying documents of identification. Absolutely nothing could be further from the truth. That is an incredible slur on a department that, in fact, has done an incredible job in identifying the people concerned.

Mr Albanese interjecting—

The SPEAKER—The member for Grayndler is warned!

Mr JOHN COBB—The Kolas came to Australia in December 1999. Three weeks later they applied for a protection visa as refugees. They then changed their name to Kola, or claimed to be the Kolas, because under the Albanian identification with which they originally came to Australia they obviously would not have been eligible to apply for refugee status.

During the course of the next four years, they exhausted every process possible to obtain protection visa status—all the way through to the Federal Court, including numerous applications to the minister. When all these were exhausted, the department made preparations to remove them from Australia, as they have to for anybody who remains in Australia illegally or unlawfully. The department went to incredible lengths, because at this stage information came to their notice which cast doubt upon the identification the Kolas were running with. They identified that the Kolas were not who they said they were, when the government of Serbia and Montenegro said that they were not who they said they were. Interpol also assisted with that. More to the point, with information given by our department in the form of photos and fingerprints, the Albanian authorities identified exactly who the Kolas were. The Albanian authorities stated that they are in fact Albanian citizens and their true names are Pali and Vata, the names they entered Australia on.

During the course of his question yesterday, the member for Watson cast incredible slurs on the department. He made these claims because the name of an officer was deleted from an FOI request—as indeed it would be; that is common practice. The department has to do rather distasteful work when people attempt to stay in Australia by falsifying their identification, and quite obviously the departmental officers who deal with it do not want to be identified. Standard practice is that their names are deleted.

Mention was also made of the fact that an officer said he had known the so-called Kolas for one year and five months. That was in fact true, and that same officer helped identify them in Albania. It is quite obvious that the member for Watson went out on half-baked information and threw an incredible slur on the department for no good reason.
Ms Gillard—Mr Speaker, I rise on a point of order. I think we have been extraordinarily generous, but can I make two points? This would not have been the earliest opportunity for the minister to clarify this but, more importantly, the matters he is going to now cannot possibly be adding to yesterday’s answer because they happened after question time yesterday. If he wanted to be asked a question by his own side, he should have arranged it.

The SPEAKER—The minister sought leave to add to the answer to a question, and the minister is adding to his answer to the question.

Ms Gillard—Mr Speaker, further on the point of order: the purpose of adding to an answer is for a minister who has come upon more information to provide the information in answer to that question. What he is doing now is referring to events that happened after yesterday’s question time. They cannot be matters about which he was asked in yesterday’s question time, because they had not happened yet, so it is out of order.

The SPEAKER—The Manager of Opposition Business will resume her seat. The minister has the call.

Mr JOHN COBB—It is quite obvious that the member for Watson went off half-baked. He owes this government, the minister and the department an apology, and he should make it now.

Ms Gillard—Mr Speaker, can I ask you to ask the minister to table the document from which he was reading? It was not marked confidential. He did read from it, and it ought to be tabled.

The SPEAKER—Was the minister reading from a confidential document?

Mr John Cobb—Yes.

QUESTIONS TO THE SPEAKER

House of Representatives: Dress Code

Mr PRICE (3.20 pm)—Mr Speaker, I seek clarification of dress codes for visitors to the public gallery. As you would be aware, advice previously provided by the Serjeant’s office was that visitors could not display political slogans or material from the public gallery and that this included displaying such messages on their clothing. In the gallery today were emergency services workers who have been meeting with numerous members of the coalition, opposition and minor parties. I understand that many of these workers were advised that they had to remove their work uniforms before they could enter the public gallery. This included their work jackets and overalls. These workers were merely wearing their work uniforms, bearing the logo of their employer fire services—uniforms of an occupation of which they are rightly very proud. Mr Speaker, will you investigate the matter and can you advise if these proud firefighters will be allowed to wear their work uniforms in the public gallery of this chamber in the future?

Mr Albanese interjecting—

The SPEAKER—Order! The member for Grayndler will remove himself under standing order 94(a). I thank the Chief Opposition Whip. I will look carefully at his question and report back to him as appropriate.

Authentication of Quotations

Mr FITZGIBBON (3.22 pm)—Mr Speaker, I was contemplating seeking leave to make a personal explanation, but there appears to be no point. Instead, I will ask you a question. The Minister for Small Business and Tourism did today what she has done on many other occasions—just like her predecessors—and quoted me inaccurately and out of context. The last time she did so, given that I had taken a number of personal explanations, I suggested to you that in future she
should have to authenticate any quote by producing the transcript for it. She has not done so. Mr Speaker, I ask you—and you can get back to the House at a later date—to consider ruling—

The SPEAKER—The member will not reflect on the chair. The member for Hunter will come to his question.

Mr FITZGIBBON—My point is that I do not expect you to make this ruling now, because it will be quite a significant one. I ask you to consider whether in future you will rule out of order any such quotes for which there has already been a personal explanation and on which the minister cannot provide some accuracy and authenticate that quote. I ask you to very seriously consider that issue.

Mr Abbott—Mr Speaker, I rise on a point of order. This is not a question at all. It is a complete abuse of questions to the Speaker, and the member should be sat down immediately.

Mr McMullan—On the point of order, Mr Speaker: there is precedent for the point which the member for Hunter raises, and both the member for Hunter and you were in the parliament when the precedent was established. It was in relation to the then member for Sydney, Mr Baldwin, who raised exactly the same point with regard to repetition of statements about which personal explanations had been made. Previous Speakers have ruled that out of order, and I ask you therefore to take seriously the point raised by the member for Hunter and ignore the interjection from the Leader of the House.

The SPEAKER—I thank the member for Fraser.

Mr Abbott—Further to the point of order, Mr Speaker, it would be almost an obscenity in a parliament dedicated to free speech if people were able to use personal explanations to gag debate in this place.

The SPEAKER—The member for Hunter has raised a point which I am happy to respond to. It is not the responsibility of the chair to vouch for any statement that a member makes in this place. As standing orders and House of Representatives Practice make quite clear, the chair has to accept that a member brings any statements to this House in good faith, therefore I cannot rule any statement out of order. However, there are other ways under House of Representatives Practice and standing orders that a member may wish to pursue this, but it is not the chair’s responsibility to vouch for the validity of a statement. In response to the member for Fraser, he would be aware that, while he raises a valid point of some time ago, subsequently that has been overtaken and rulings that have been made since have not upheld that earlier ruling.

Mr Beazley—On the point of order, Mr Speaker; while you are going through that process, Mr Speaker, could you also give us a translation of the answer that was given by the Minister for Immigration and Multicultural and Indigenous Affairs?

The SPEAKER—The Leader of the Opposition will resume his seat. Does the member for Hunter have another question?

Mr FITZGIBBON—While I accept the genuineness of your response, could I simply ask you—

Mr Vaile interjecting—

Mr FITZGIBBON—I do not need your help, mate. Mr Speaker, I ask you to take a look at House of Representatives Practice—I have not had the time to do so during this short exchange—because there is a requirement that members do authenticate such transcripts and publications. I might be wrong: it might not apply in this example. But I ask you to look at that requirement in House of Representatives Practice and report back to the House.
The SPEAKER—I can inform the member for Hunter that it is not the requirement of the chair to authenticate a statement by a member.

Mr Fitzgibbon—it’s the responsibility of the member.

The SPEAKER—The member can be challenged, but not by the chair.

Ms Gillard—On the point of order, Mr Speaker: perhaps I could assist—and I think the matter might require some reflection by you. What you said, Mr Speaker—which I agree with absolutely—is that if a member is making a statement in good faith then it is not a matter for you to intervene. The question you are really being asked to consider is whether it is possible that a member is making a statement in good faith when what is being asserted by the member is a fact that has been denied by way of personal explanation by a member in this place on a number of occasions. Is it conceivable that a member who has heard someone deny the fact five, 10, 15, 20 or 25 times is continuing to make that assertion in good faith? May I suggest, Mr Speaker, that that is a matter that might require some reflection.

On another matter, Mr Speaker, could I ask you to clarify whether the Leader of the House is now conveying to the House that he is opposed to the use of the guillotine and gagging of debate, because that is something we would like to know before tomorrow?

The SPEAKER—I thank the Manager of Opposition Business. Clearly, her last question should be directed to the Leader of the House. On the first point, it has been practice for some time now that the usual method available to a member where he or she feels that they have been unfairly represented is to make a personal explanation. There have been occasions when that has been done repeatedly.

Parliamentary Behaviour

Mr WINDSOR (3.29 pm)—Mr Speaker, I am seeking clarification in relation to some rulings that my good friend the Deputy Speaker has made in recent weeks. It relates to the use of the word ‘bribe’. On Monday the Deputy Speaker called the member for Perth to order for that reason. Some weeks ago I was evicted for using that word when in fact earlier in the day I think you would remember that I had used exactly the same phrase. I do not intend to use it today—I am not doing this for some sort of political grandstanding reason. I used it earlier in the day and you accepted the phrase when I believe you were in the chair. I think we do need some clarification in the use of this word and I think it has to come from your office. For your information, Mr Speaker, on 22 May 1996 the member for Page, the current Deputy Speaker, used these words:

... it is clear that the previous Labor government bribed the maritime unions of Australia so as to encourage the sale of ANL ...

Also, for your information, Mr Speaker, on 12 October 1988, the current Prime Minister made this statement:

Unbelievably, a Prime Minister of a Labor government went twice to Ipswich trying to beg and bribe the traditional voters of that Labor Party heartland in Queensland to vote for him.

I note that in a search of the computer database the current Minister for Agriculture, Forestry and Fisheries is a serial offender in relation to use of this term and that the term has been used 332 times since 1991. Could you report back to the parliament some clarification as to the Deputy Speaker’s rulings?

The SPEAKER—I am happy to respond to the member for New England now, and I thank him for indicating that I was to be asked this question this afternoon. On the first point, the member for Perth was asked to withdraw a statement and I believe that he
did so. If a member is asked to withdraw and does so, that is the end of the matter. If a member refuses to, then the member is, of course, defying the chair. To give you a full answer on the question of offensive expressions, the context in which words are used and the atmosphere in the chamber at the time are important considerations. As outlined on page 499 of *House of Representatives Practice*:

... the determination as to whether words used in the House are offensive or disorderly rests with the Chair, and the Chair’s judgement depends on the nature of the word and the context in which it is used.

With regard to the recent examples that the member for New England is referring to, page 502 of *House of Representatives Practice* makes it clear that an accusation made against an identifiable group of members of the House will be regarded as unparliamentary and offensive, as if it were made about an individual member, and it should be withdrawn on the chair’s request. In practice, the requirement for the withdrawal of a reflection on a group of members depends on the severity of the reflection; in the first instance, depending on the context, reflections should be personally offensive. Many remarks that offend political sensitivities would normally not require withdrawal. Where a member refuses to carry out an instruction from the chair, such as to withdraw a certain expression, the offence is compounded so as to constitute defiance of the chair. It is in the interests of our parliamentary institution that members obey the directives of the chair, and refusal to do so warrants stern intervention. I again draw the attention of members to the guidelines quoted in *House of Representatives Practice* that ‘Good temper and moderation are the characteristics of parliamentary language,’ and that this is never more desirable than when canvassing the opinions and conduct of opponents in debate.

To add further to the examples that the member for New England drew of previous occasions, it really is not productive to draw comparisons on the basis of the written record alone in any matter. With offensive expressions, the context in which words are used and the atmosphere of the chamber at the time are also important considerations. Equally importantly, a request for withdrawal must be made at the time, and I note that none was requested at that time in the earlier cases.

**Authentication of Quotations**

Mr Fitzgibbon (3.34 pm)—Mr Speaker, have you read page 529 of the current *House of Representatives Practice*, which does contain a requirement that quotations from newspaper articles or transcripts used in a question must be authenticated? Unfortunately, I am wrong. Because she was answering a question, the Minister for Small Business and Tourism had no obligation to authenticate the quote. However, that is an obvious flaw in *House of Representatives Practice* or in the body of the law developed in this place. If the minister had any morality about her, she would apply that principle to her answer as well.

The Speaker—I would make the point to the honourable member for Hunter that I think I have answered the first point of his question. The *House of Representatives Practice* has just been revised. If he wishes to discuss the matter further with the clerks, he is very welcome to do so. I would also ask the member for Hunter to check that he is reading from the latest edition of the *House of Representatives Practice*.

**Parliamentary Behaviour**

Ms Hall (3.36 pm)—Mr Speaker, I am very mindful of the answer that you just gave to the member for New England. One thing
that I would not like to do would be to ever hold the chamber or you in contempt. I do not quite understand what the parameters are that determine the ‘atmosphere’ within the House. Could you clarify that a little bit for me and other members.

The SPEAKER—I thank the member for Shortland. As I have made it clear, the occupier of the chair at the time is the person who has to make that decision. I think all members who have occupied the chair would be well aware that, at times, it is not an easy decision. Nonetheless, I believe that all people who occupy the chair do so in good faith and do so in an endeavour to allow proper debate to occur to and to allow all members the opportunity to put their points of view.

Authentication of Quotations

FRAN BAILEY (McEwen—Minister for Small Business and Tourism) (3.37 pm)—At the end of question time, as members would know, the member for Hunter challenged on what basis I answered a question. I will table the full transcript of the interview. I do note that the member for Hunter supports flexibility in the workplace as well.

DOCUMENTS

Ms JULIE BISHOP (Curtin—Minister for Ageing) (3.37 pm)—Documents are tabled as listed in the schedule circulated to honourable members. Details of the documents will be recorded in the Votes and Proceedings.

MATTERS OF PUBLIC IMPORTANCE

Fuel Prices

The SPEAKER—I have received a letter from the honourable member for Batman proposing that a definite matter of public importance be submitted to the House for discussion, namely:

The failure of the Government to direct the ACCC to formally monitor fuel prices and to take adequate measures to build Australia’s transport fuel self-sufficiency and provide a buffer against future global oil price shocks.

I call upon those members who approve of the proposed discussion to rise in their places.

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

Mr MARTIN FERGUSON (Batman) (3.38 pm)—I think we all appreciate that high petrol prices rank as the biggest issue of concern in the Australian electorate today. That is why we are having this debate. But, more importantly, from the opposition’s point of view, the debate is about not just the immediate difficulties confronting the Australian community with high petrol prices but also a genuine endeavour to try and force the development of a long-term vision about where Australia should go, in an endeavour to build a buffer against future global oil price shocks and make a huge step forward on the self-sufficiency front. In terms of high petrol prices being a huge electoral issue, I note that they are not only of major concern in Australia but also of global concern, and I refer to the panic purchases of petrol in the European Union at the moment.

In Australia, perhaps it is about time the Howard government understood that petrol prices are an issue of great concern to the so-called battlers that the Prime Minister liked to talk about so much in the lead-up to the March 1996 election. In that regard, I will briefly refer to the Shell Sydney petrol prices. The pump price today is 131.8c per litre. The 28-day average is 124.9c per litre. I therefore wonder why the Treasurer on a number of occasions this week has sought to use question time to dismiss any concerns by the Australian community about the price of petrol at this point in time. I simply say that perhaps the Prime Minister and ‘that thing’, the Treasurer, ought to finally accept that
Australian motorists are hurting. I will tell you why they are hurting. They principally bear the burden of unprecedented petrol prices. The Prime Minister and “that thing”, the Treasurer, have repeatedly brushed them off—

The DEPUTY SPEAKER (Hon. IR Causley)—The member for Batman!

Mr MARTIN FERGUSON—and told them there is nothing that they can do about it. Yes, Mr Deputy Speaker, that is the arrogant and extreme approach that the Treasurer has adopted day after day in the House this week in relation to questions about the price of petrol. I simply suggest this afternoon that, in accordance with the five-point plan issued by the Leader of the Opposition, there is plenty that the government can do about petrol prices if it actually has a will to do something to accept the concerns of the Australian community.

First and foremost, the government could direct the ACCC to formally monitor fuel prices. The Treasurer likes to suggest that the government should not do this type of thing. In terms of investigations and responsibilities, how many times did the Treasurer labour the point in question time today about ASIC and Telstra and ASIC’s responsibility to have a full and proper investigation about the performance of Telstra? If it is good enough for ASIC to accept those responsibilities at the request and direction of the Treasurer, perhaps it is time for the Treasurer to direct the ACCC to formally monitor fuel prices. Perhaps that might not produce the result that the consumers want at the moment, but it would provide a certain peace of mind to Australian motorists that someone cares about them and that someone is prepared to investigate their concerns to the fullest.

I do not consider that oil companies should mind. If you have a look at the media, you will see that in some of the tabloid journals there have been some pretty cheap shots by some second-rate journalists about the problems that confront us on the oil price front at the moment. Some of those shots are directed at the oil companies. I would have thought that the oil companies had nothing to hide from the ACCC formally monitoring fuel prices on a regular basis, because they are the ones whose reputation is being damaged the moment, with blame being apportioned for price gouging and no-one—particularly the Prime Minister and the Treasurer—bothering to give the Australian community a decent explanation about petrol prices both within Australia and internationally.

I believe that is what we should be doing. We, as the elected representatives of the Australian community, have a responsibility to explain the challenges and the difficulties that confront ordinary Australian workers as they seek to live from week to week because of the huge jump in petrol prices in recent times. It is a weekly challenge to these people. Every week they now confront serious questions: do they have enough money to fill the petrol tank or, alternatively, do they purchase some food to feed their kids? Can they afford the pair of runners to put shoes on the feet of their children or, alternatively, can they afford the school excursion? That is why they are crying out for an explanation from the Australian government.

There is a lot of goodwill in the Australian community. If you are prepared to take them into your confidence and seek to fully and honestly explain what is going on, they are prepared to accept your word. Their contempt for the Australian government at the moment is due to the fact that the Australian government, as displayed in an arrogant manner by the Treasurer this week, has simply dismissed their concerns. I say that the
best answer is for the Australian competition watchdog to front up to its responsibilities.

The Australian Competition and Consumer Commission thinks it is good enough to issue a glossy magazine entitled *Understanding petrol prices in Australia*. I might have read it, but mums and dads at the breakfast table each morning do not have time to read it. They are more concerned about how they will make ends meet. The problem is that the Treasurer does not mix with those types of people. He mixes with the top end of town as he hobnobs it around Collins Street and all those leading business houses. When the Treasurer and his mates, such as the Krogers, sit down to conspire about lopping off the head of the Prime Minister, they do not know what ordinary battlers are experiencing. The head of the Australian competition watchdog said in an off-handed way, ‘Something funny is going on with refiner margins.’ Tell us what is going on, Mr Samuels. Maybe then we will take you seriously too. All we want is an explanation.

I raise these issues because it is about time someone sought—as we will seek this afternoon—to give a bit of an explanation to the Australian community. That explanation goes to the fact that the increase in oil prices and petrol prices is largely because consumers around the world have been worried about petrol shortages after Hurricane Katrina caused the shutdown of refineries in the United States. There has been panic buying in America and in Europe. We also have to handle the fact that the fastest-growing economies in the world, China and India, have an insatiable thirst for fuel at the moment.

In many ways, we are beneficiaries of that insatiable thirst for resources. Australia is a resource rich nation so, in the same way that there is pressure on fuel prices at the moment, we have also benefited from that economic growth. In the last 12 months, Australian producers have obtained record increases in the export price of our resources: a 120 per cent increase in the price of our coking coal on the international market; a 20 per cent increase in the price of our thermal coal and a 70 per cent increase in the selling price of iron ore in this year alone.

That is part of the explanation. Why don’t the Prime Minister and Treasurer bother to try to explain these issues to the Australian community—the people who put their faith in the government at the last election—and try to do something to solve the problems that are confronting Australia? The problem is that this government is not about solving problems; it is about removing political issues when it thinks they will concern it electorally. There is no long-term vision, no capacity to think through the problems that confront us as a nation and no capacity to work out how we put in place medium- and long-term solutions to issues such as terrorism, skills and infrastructure shortages and, now, fuel prices that will guarantee Australia a very bright economic future. It is up to the opposition to lay the challenges before the government to try to force a debate about where Australia is going in the 21st century.

That is the crux of the debate this afternoon. It is not only about the price of fuel; it is also about how we as a nation develop an alternative industry so as to create some opportunities to improve our degree of self-sufficiency into the future. Because we are rich in resources, we have the capacity to take up those challenges in the same way the Australian resource sector has, in the context of the coal industry, taken up the greenhouse debate. It is talking about sequestration and clean coal, because that is about guaranteeing the future export of Australian coal, which is about jobs and a larger economic cake in Australia.
We as a nation also have to come to terms with future endeavours and to create a buffer against future global oil price shocks. I raise these issues because, by 2010, net crude oil import reliance in Australia is likely to be about 40 per cent and rising to 50 per cent by 2020. Our problem as a nation is that, for the last few decades, we have consumed oil three times faster than we have added to our reserves. So there is a fairly basic challenge: we have to do more to look after our future because, if we do not do it, no-one else will do it for us. That is what governments are elected for: to try to work out how to position ourselves for the future—not to run away from the hard issues and merely have a strategy in government to neutralise political issues rather than to create long-term opportunities for Australia to solve its domestic and international problems. This is a very serious debate. I only wish that the Treasurer had the guts to front up to a debate such as this, rather than sitting in his office and spending all his time counting numbers for a ballot that, because he does not have any ticker, may not happen. This debate is about ticker too. It is about confronting hard policy issues.

Australia is rich in gas. One of the challenges to us as a nation—as it is with the debate about clean coal—is whether we have the intellectual integrity and the capacity of leadership at a national government level to embrace the gas to liquids debate. Gas to liquid technology is there to be opened up. We need to ensure that we create liquid transport fuel markets both in Australia and internationally. In the same way, we should be doing something about the biofuels industry, which the member for Capricornia will touch on at length. I say to the government: lead, do something, make some hard decisions.

Gas to liquid technology has not been used on a global scale before simply because global oil supplies have been so abundant and crude oil refining has been less expensive. The world is now changing. Recent occurrences have opened up new opportunities if you want to grasp them, but that requires a bit of commitment, integrity and leadership at an Australian government level. If Qatar can do it and seek to become the gas to liquids leading centre of activity in the world, so can Australia.

We as a nation have prided ourselves on playing above our weight, be it in research and development and the historic importance of the CSIRO or on the sporting field. We have always sought to take on the tough decisions and the tough challenges. I am laying down a challenge to the Australian community today: force the Australian government’s hand. Unless we stand up as a community and force their hand, they will do nothing.

In conclusion, I raise these issues. We cannot sit on our hands. We do not have control over petrol prices internationally, but we can determine our future by getting serious about turning our abundant gas supplies into liquid transport fuels, thereby increasing our self-sufficiency and reducing our reliance on Middle East imports. If we ever needed to do that, we need to do it today. In 1996 the Prime Minister wanted to know the ordinary battlers—now he has dismissed them as irrelevant; he has used them up enough. I simply say: front up to your responsibilities.

(Time expired)

Mr TRUSS (Wide Bay—Minister for Transport and Regional Services) (3.53 pm)—I note the contribution of the honourable member for Batman to the debate on the importance of providing fuel to our industry and to transport at an affordable and reliable price. Unfortunately, the reality is that the honourable member for Batman is full of criticism but not terribly many solutions.
As a farmer and as someone who lives in a regional area, I know as well as anyone the real impact of rising fuel prices on the household budget. It affects every family in Australia. It means that money that would otherwise be available to spend on things that might be a family priority needs to be used to power the family motor vehicle or undertake other tasks in the region. It affects some industries more than others. Obviously, the transport sector faces increased costs, some of which are being passed on by special fuel surcharges. It affects those people who need a lot of energy to undertake their daily work. That includes farmers and quite a lot of people in industry. It also affects the tourism industry, particularly in areas where there is a dependence on the motoring public. All of that clearly has implications that we would prefer not occur. All Australians want lower fuel prices.

It is true—as the honourable member for Batman acknowledged—that we are a significant exporter of energy, so in relation to the balance sheet there have also been some positives associated with the higher price of energy around the world. Very little of that flows directly to the person who is pulling up at the petrol station, to compensate for the higher cost associated with filling their tanks.

As the member for Rankin has said on a number of occasions, and as was confirmed today by the member for Batman, Australia’s record petrol prices have one cause and one cause only—that is, high world oil prices. The Prime Minister and the Treasurer have said that. The government have not been running away from that issue. We have not sought to not tell the Australian people what the facts are; we have done precisely the opposite. Fortunately, there is a degree of unanimity around the place. There is the odd witchdoctor or conspiracy theory but in reality most people acknowledge—and most people at home appreciate—that this is an issue largely outside the control of a country like Australia.

Graeme Samuel, from the Australian Competition and Consumer Commission, added another important comment when he said:

> Although we only import a very small level of our total petrol needs into Australia, most of it’s refined in Australia.

The Australian refiners of course have the option to sell into the world market, on for example the Singapore market, or to sell it to Australian motorists.

He makes the very valid point that, even if we were to try and artificially manipulate the prices in this country, the effect would be one of there being no available fuel in this country, because people would take the economic answer, the best financial solution for them, and export it to other parts of the world. So petrol prices in Australia are closely linked to international prices because our refiners have the option to sell it anywhere they choose in the world.

There has been criticism during question time—and this was briefly alluded to by the honourable member for Batman—that perhaps the Australian Competition and Consumer Commission should do more to somehow or other reduce the price of fuel. It is not correct to say that the ACCC does not monitor petrol prices. In fact, I am told that it monitors petrol, diesel and auto LPG prices at around 4,000 sites across Australia. The ACCC can also conduct additional random monitoring in remote areas and investigate complaints about price changes. This is not about a lack of information; we all know that the price of fuel has gone up. What we would like to see are ways to effectively address the cost of fuel.

It is also important to know that the ACCC is equipped to take action under the Trade Practices Act if there is evidence of
anticompetitive behaviour, including undertaking informal monitoring, investigations and court cases in the petroleum area as appropriate. For example, the ACCC has instituted proceedings against 16 respondents, alleging a number of competitors in the Ballarat region were part of a longstanding arrangement to fix retail petrol prices. On 17 March 2005, the Federal Court imposed penalties totalling $23 million in response to these allegations. So the ACCC not only has the power; it has exercised it, and very significant penalties have been imposed.

I encourage anyone who has evidence of illegal practices within the Australian fuel retail, wholesale or refining sector to report it to the ACCC. Labor should put up or shut up if they believe that there is evidence of price manipulation or ineffective competition in the marketplace. The member for Rankin—who is not just an ordinary backbencher of the Labor Party; he happens to be chairman of the federal Labor caucus economic committee, so presumably he is speaking with some kind of economic authority from the other side—has written:

Nor is it true that an oil cartel is artificially spiking petrol prices ... the petrol retail market is highly competitive.

The opposition has effectively ruled out the conspiracy theories and the arguments about a lack of transparency. It has ruled out all those things. So it is unfortunate that, from time to time, we get this crass attempt to break out on those sorts of issues and seek to blame people who cannot reasonably be held responsible.

Mr Martin Ferguson—We didn’t seek to do that, Warren.

Mr TRUSS—You have done it, whether you sought to do it or not. People on your side have certainly been very active in so doing.

The DEPUTY SPEAKER (Hon. IR Causley)—Order! We do not need a debate across the table.

Mr TRUSS—Australia’s retail petrol prices remain amongst the lowest in the developed countries. Again, I know that is no comfort to people who are pulling up at a petrol station. They think the price is too high and the fact that ours is the fourth-cheapest price amongst the 30 OECD countries is of little comfort. The United Kingdom pays around twice the price for petrol that we do. According to the International Energy Association, Australia has the fourth-lowest fuel taxation in any OECD country and, consequently, the fourth-lowest petrol prices. So it is a fact that, even though our prices are high, much of the rest of the world has to endure an even greater burden.

One element that is frequently brought into focus when people are concerned about the cost of petrol is the level of fuel taxes. That has not been such a strong theme this time, because the public also know that this government has done more than any other to stop the increase in fuel prices as a result of excise. That is not true for those opposite. For the record, it needs to be said that, when the Hawke Labor government was elected on 5 March 1983, federal petrol excise stood at just 6.155c a litre. From that time on, there has been a ruthless march upwards in excise levels. Within three years, Labor had doubled the excise figure to 15.776c a litre. Within another year, it had trebled to 19.2c a litre. And then who can forget the infamous Keating budget of 1993, where Labor promised it would not increase taxes but petrol went up another 3c a litre. In fact, in the 13 years of Labor, fuel excise went up by 590 per cent—that is, 15 per cent a year for 13 years compound. They were great taxers. When Labor left office in March 1996, the fuel excise stood at 36.325c a litre.
So it is pretty hypocritical when we hear people on the opposite side say that their answer is a new theory to take 3c or 4c a litre off the price of fuel. The reality is that Labor have never cut fuel excise levels. They have an appalling record of massively increasing those levels.

*Mr Crean interjecting—*

_The DEPUTY SPEAKER_—The member for Hotham has already been warned.

_Mr TRUSS_—And do not forget that the current Leader of the Opposition was the Minister for Finance when many of those increases were put in place. Contrast that with what this government has done. We have frozen the excise level. It has not gone up for four years. We also reduced excise significantly when we introduced the new tax system, and then a further 1.8c a litre a little time later. This has been a government that, for the first time ever, has been out there cutting taxes on fuel, and that is almost unprecedented in our national history.

There is one tax that goes up when fuel prices go up—that is, the GST. Of course, the full impact of the GST—the full benefits of that price increase—goes back to the states. So if anybody has a capacity to cut taxes, to reduce the cost of fuel, it is obviously the states.

*Mr Crean interjecting—*

_The DEPUTY SPEAKER_—The member for Hotham then left the chamber.

_Mr TRUSS_—They could accept some kind of a freeze on GST, if they chose to do so—I am not expecting that they will. It is also true to say that business users get their GST refunded for the fuel they use for business purposes. The change in taxation policy makes a huge difference to the price of fuel, and I think it is part of the reason why the public have been a little more understanding about the current price than they have been in the past.

To put this into some kind of context, a family who uses 50 litres of petrol a week is now saving $174 a year in excise as a result of the changes that we have made. If Labor had still been in office and there had been no change to the tax system, the fuel excise now would be 52.8c a litre, or 38 per cent higher than it is. So Labor comes into this debate with a fair bit of history, with a fair bit of dirty linen.

I note that the honourable member for Batman, in a very important contribution to the debate, spoke about the need for us to look towards alternative fuels. I agree absolutely that we need to consider what other options are available. Of course, as prices go up, all of these other options become economically more attractive. One area where again the Labor Party’s record does not stand up to their current visionary claims is in relation to ethanol and biodiesel. They have organised a systematic campaign to vilify ethanol as a fuel.

This burgeoning industry has been effectively destroyed in its infancy by outrageous statements made by the opposition. Their dishonesty and the way in which they have peddled stories about engine failure and the like have seriously damaged the growth of the ethanol industry around Australia. It has been left to the government to try and foster this industry. We have provided very substantial financial support for the ethanol industry. We have indicated that we want 350 million litres of ethanol to be used in Australia by 2010. That is a pretty modest target, yet we have gone backwards over a considerable period of that time because of the vilification of biofuels by the opposition.

*Mr Katter interjecting—*
The DEPUTY SPEAKER—The member for Kennedy!

Mr TRUSS—If the opposition want to make a constructive contribution, why don’t they start supporting ethanol and biodiesel?

Mr Martin Ferguson interjecting—

The DEPUTY SPEAKER—The member for Batman has had his 15 minutes.

Mr TRUSS—Why don’t they give us a chance to substitute renewable fuels for oil and the other fuel mixes that we have at the present time? I acknowledge that there will be a future role for gas, hydrogen and who knows what else in powering motor vehicles in Australia. A lot of that technology is not yet there. I understand that the honourable member for Capricornia is about to speak, so she might like to explain why the Labor Party are so opposed to the shale oil developments in her own electorate. There are plenty of options around for us to provide an opportunity to develop domestic, home-grown renewable and other fuels to power our industry into the future.

I do not believe that the solution is as suggested by the former President of the ALP and the member for Fremantle, Carmen Lawrence, when she addressed a large rally in Western Australia last year and advocated $2.50 a litre as the price of petrol—that we try to force people off the road by charging outrageous prices for petrol. In fact, that $2.50 in today’s terms would probably be close to $4 a litre. Now that is not a reasonable approach to take. The ALP’s approach to fuel pricing 12 months ago, ‘Oil: living with less’, was an irresponsible approach. It tears away at the credibility of the Labor Party and their crocodile tears in relation to fuel prices at the present time.

I think we can work constructively as the government and as a community to encourage alternative fuels, to seek to deliver the oil that we have in the most efficient and effective way, to use our energy more sparingly so that it can be available to share with future generations and also to make a genuine effort towards developing new energy technologies and growing the ones we already have such as biodiesel and ethanol. So stop criticising this; give it a go and it can make a contribution. Let me say that the fuel companies should follow as well. If they want to deliver cheaper fuel than at present, they should add some ethanol, because it is cheaper than oil. (Time expired)

Ms LIVERMORE (Capricornia) (4.08 pm)—The debates that are going on in this House today say so much about what has changed in the attitude of the Howard government over the last couple of years and particularly since the 2004 election. This week we have had a clear illustration of just how out of touch the government have become and how far removed they are from the real lives of average Australians. Gone are the days when the Prime Minister could proudly claim to be finely tuned in to the views of the electorate and government policies would be scrapped or rewritten after just one bad session on talkback radio.

Just have a look at what is going on in parliament this week and it is obvious that the Howard government has stopped listening to what the Australian people are saying. In the Senate the government is voting for the sale of Telstra against the wishes of 70 per cent of the community and contrary to all the evidence mounting by the day that this is bad policy—bad socially, bad economically and just plain bad for this country’s future and all the people who would actually like a stake in that future.

In this chamber we have tried for three days now to make the government realise just how badly our constituents—mums and dads, pensioners, small business people and primary producers—are suffering from the
record high petrol prices we have seen in recent weeks. We have tried in vain to have the Treasurer step up and act as the leader he aspires to be and end the apparent price gouging that is indicated by the gap between world crude oil prices and the price for refined petrol here in Australia. But the Treasurer and the Prime Minister have consistently refused to act, to do what is in their power to stop our constituents from being ripped off. Instead they shrug their shoulders and say, ‘It’s got nothing to do with us; it’s just the world oil prices.’ In other words, to all those people around Australia whose budgets are stretched to breaking point by high petrol prices this is to say, ‘You can just cop it sweet.’

This week we have seen a shameful display of the government washing its hands of any responsibility for high petrol prices. And equally shameful is the fact that for nine long years the government has been sitting on its hands while Australia has become increasingly reliant on imports for our energy needs. That reliance on imports makes us more vulnerable than we need to be to future global oil shocks and fails to capitalise on our own potential to develop new industries in our important energy sector.

As someone who proudly represents a region that is at the heart of Australia’s resources sector, supplying energy to Queensland and exporting coal to the world, I was shocked to learn that our country, so rich in natural resources, imports 60 per cent of the oil we need to make petrol and diesel. Since we are currently consuming oil three times faster than we are finding it, that figure can only worsen.

The outlook for the prices we are paying for those oil imports in the world market is not expected to improve greatly either. All that coal going out of my electorate to steel plants and factories is making China and the other Asian nations wealthier by the day and with that development and rise in living standards comes even more demand for oil. On present trends, we will be competing with these huge nations for the same oil resources for which we are competing right now. That can only mean one thing: higher petrol prices are here to stay. However, the question is whether Australia is merely a victim of higher prices or a player in the market, able to benefit from the world demand for energy and make our own domestic prices more bearable. We in the Labor Party believe that more can be done and that more should have been done by this government to develop our own sources of transport fuel.

As someone who sits in question time every day, I sometimes think that the government’s worst characteristic is its arrogance. As someone who cares deeply about the future of this country, I think the worst thing about this government is its complacency. This issue is a classic example of that complacency and laziness. The Howard government has had nine long years to come up with a plan to address our growing import dependency and exposure to the whims of the OPEC cartel and Middle Eastern oil producers, but here we are in 2005 and, after nine long years in power, the government is wringing its hands about Hurricane Katrina and saying, ‘That old world oil price: what can you do?’

They could start by getting serious about the potential for natural gas to be converted into liquid fuel. There is a significant opportunity for Australia to develop a large-scale alternative fuels industry producing ultraclean diesel, using vast natural gas reserves which, until now, have been stranded in terms of their economic value because of their remoteness from markets and infrastructure. As my colleague the member for Hunter told the House yesterday, there are 150 trillion cubic feet of natural gas reserves
in Australia that could be converted into liquid diesel. This is precisely what is happening in Qatar in the Middle East, as the member for Batman pointed out, and there is no reason why Australia could not be developing that same capacity and establishing a whole new industry around those resources.

Growing up in Central Queensland, I watched the Bowen Basin coal industry develop from paddocks into a multibillion dollar export industry employing thousands of people and sustaining some 15 vibrant communities. So I have seen what strategic support for an industry can achieve for a region and for our country. The other component of an alternative fuels plan, which is music to any Queenslander’s ears, is ethanol and biofuels.

Mr Windsor—Hear, hear!

Mr Katter—Hear, hear!

Ms Livermore—Thank you for that support from the Independent members. What a surprise—good on them! This is something we can do even more quickly to address the issue of self-sufficiency.

The government has to stop looking at this industry through political eyes. It is always looking at it in terms of what it can horse trade with the National Party or how it can give a leg-up to this or that producer. As my colleague the member for Hunter said yesterday, while this government is a friend to certain ethanol producers it is no friend to the ethanol industry because it has no plan for the industry. The government needs to start looking seriously at the ethanol industry as an industry which has real potential to boost Australia’s energy self-sufficiency and the long-term viability of many of our rural communities.

Labor has always supported the development of the biofuels industry in Australia. It is a shame that the Minister for Transport and Regional Services is not here to learn about this. It was the Keating government that introduced an 18c a litre production bounty for ethanol in the 1993-94 budget, in addition to the zero excise rating. Let us not forget that it was the Howard government that abolished the bounty scheme one year early in the 1996-97 budget. In the last parliament alone the Howard government changed its mind three times about excise on ethanol. How can you expect people to invest in an industry when there is that lack of vision and coherence coming from government?

Instead, it has been Labor state governments that have been left to show leadership and promote and develop the ethanol industry. In Queensland and New South Wales the Labor governments have been actively promoting ethanol blends—including using ethanol blends in government fleet vehicles—and they have been working with the oil companies, including independent chains, to grow the market for ethanol products in those states. For example, the Queensland government has helped many service stations to convert their underground storage tanks to hold E10—and I believe that that has just happened in one service station in Rockhampton, in my own electorate.

I have another question for the minister—it is a shame he is not here. How hard would it be for the Prime Minister to require the Commonwealth fleet to use ethanol blends where possible? It would cost him nothing to be generous in supporting the development of the ethanol market in this way. So perhaps, instead of pointing the finger at us, the minister who was here in the chamber should be talking to the Prime Minister and seeing what the Commonwealth government can be doing in a realistic and practical way to help the ethanol industry.

These are typical forward-looking, industry-supporting, nation-building Labor initia-
tives—the kind that this country is calling out for but never sees from this government. This government should not condemn Australia to being merely a victim of high fuel prices when with some foresight and commitment we could develop our own resources. We can become more self-sufficient and be a player in the market, generating the kind of revenue that will set up our country’s future rather than sell it short.

Mr JOHNSON (Ryan) (4.18 pm)—I am very pleased to speak on this MPI because it demonstrates to the parliament and the people of Australia that the federal opposition are quite unfit for office. Indeed, they have never been more unfit for office than they are today. I thought that they would have been more engaged in policy development, but instead in question time today the opposition highlighted very clearly that they have no capacity to do things in the interests of this country.

The other thing that this MPI demonstrates is that the opposition is clearly out of touch with the dynamics of international economics and how that impacts on the people of Australia. The MPI shows that the Labor opposition does not understand how the global economy functions. I thought the shadow minister would have some understanding of this, but quite clearly he does not have even an elementary understanding.

The government is fully aware of how significant the increase in petrol prices is for Australians right across this country. Petrol price increases are certainly not good for businesses or families. As the Treasurer indicated today in question time, these increases are not welcomed by the government and it seeks to do as much as it can to alleviate the impact. The government fully understands the economic and social pain that these increases are having on Australians right across this country. As I mentioned, the government is not very happy about it at all, but I say to the opposition that there is limited scope for the federal government to take action. I think the Australian people appreciate this. The overwhelming majority of Australians appreciate the scope of a national government to intervene in a situation of global economics where a product is highly influenced by international relations, international politics and international economics.

What we heard from the shadow minister the member for Batman, and his colleague the member for Capricornia, was cheap politics. It was hollow politics which tried to stimulate people in the community into thinking that we could do things in this parliament that are beyond the capacity of the federal government. I am disappointed that the member for Rankin, who is a Queensland member and a former shadow minister, has left the chamber because I wanted to quote him. I think that he would really appreciate what I would like to quote in this debate—but I will come to that in a moment.

This MPI calls on the ACCC to get involved in this issue. Of course, as the Treasurer mentioned, it is true that the ACCC has the authority and the responsibility to monitor petrol prices. It already does this informally around the 4,000 sites across this country. The point to be made here is that the Labor Party has clearly not done its homework. It is trying to lecture the government about what to tell the ACCC, but it does not realise that the ACCC has put out a statement saying that it is already doing that. Today is 14 September, and in a press release dated 12 September the ACCC said:

The Australian Competition and Consumer Commission has confirmed that it is closely monitoring developments in petrol prices both in Australia and overseas.

Recently there have been significant increases both in the level of petrol prices in Australia and
also in the difference between petrol prices and crude oil prices.

This phenomenon is occurring not only in Australia but also internationally. It is primarily a result of a shortage in the supply of refined product in the US Gulf following Hurricane Katrina and the Chinese government’s recent decision to take steps to halt the export of petrol because of an acute shortage of fuel in several of China’s provinces.

This is from a press release issued by the ACCC on 12 September. In today’s MPI debate, the shadow minister for primary industries, resources, forestry and tourism, the member for Batman, called on the Australian government to direct the ACCC to monitor fuel prices in this country. It is not for me to counsel the opposition, but I suggest that it might want to do some homework before it starts lecturing this government on its policies and what it can do to alleviate petrol prices. This is a major own goal. This statement clearly says that petrol prices in this country are heavily influenced by external forces that are beyond the control of this government. The shadow minister was asleep at the wheel there.

I want to make it very plain that at this point in time there is no evidence that domestic price increases are linked to any anticompetitive action or practice—

Ms George—That’s not what Graeme Samuel said.

Mr Johnson—which is the implication of what the shadow minister is calling for to be looked at. He is calling on the government to direct the ACCC to take a certain course of action on the basis that there is anticompetitive practice. As the Treasurer said, the ACCC has powers, it has full awareness of its powers and it is in a position to act as is appropriate. If there has been any breach of the law, there will be a prosecution and there will be heavy penalties if they are warranted. But the ACCC does not need this government to instruct it on how to act in this situation.

I want to talk about Australian petrol prices in general because, as I have alluded to, the opposition quite clearly does not understand. Australian petrol prices are linked to international prices around the world. Two-thirds of the oil used in Australian refineries is imported. It follows, therefore, that the rise of crude oil prices will clearly have an impact on what people pay at the bowser. Let me repeat this for the member for Throsby and all those sitting opposite: this country has little influence over petrol prices—certainly not to the extent that the shadow minister is trying to imply and to shamelessly portray to the people of this country.

It is also very clear—it should be very clear to the opposition—that fuel excise is a fixed amount levied on the quantity of petrol sold. Therefore, revenue collected by the government is not increased or affected by petrol price fluctuations. I know that shadow ministers and members opposite are trying to stir up the public and trying to give the impression that when petrol prices increase there is a wash of money flowing to the federal government. That is absolute nonsense. It is not correct and it is important that members of the government stand in this chamber and clearly communicate what the true position is.

In 2000, following the commencement of the new tax regime, excise was reduced by around 6.7c per litre. The government further reduced petrol and diesel excise by 1.5c per litre in March 2001 and, very importantly, abolished the half-yearly indexation of fuel excise. It is incumbent upon members of the government to make this very clear in this chamber and it is incumbent on the opposition to tell the full story. We on this side of the chamber all know that, whatever the op-
position say, either they do not tell the full story or they exaggerate. We have to check because we do not want to take anything they say as gospel.

I know that the people of my community, the constituents of Ryan, will be fully aware of how they suffered under the last Labor government. It is very important that they are reminded of how the former Labor government managed the economy of this nation. When they were in government in 1993, with a deficit of $17 billion, the government of Paul Keating increased excise by 3c, thereby pounding motorists throughout Australia and, in my case, very significantly hurting the motorists of the electorate of Ryan. Thankfully, with the economy on the ropes, a coalition government was elected in 1996. It is very important to state that since 2001 the government has frozen excise, unlike the position that prevailed under the Labor Party, when indexation twice a year bludgeoned family budgets. It is very important that we continue to say this and that members of the government remind their constituents of what damage can be done to family budgets if the opposition ever takes office.

I want to conclude by calling upon all governments around this country to use the GST revenues, of which they are awash, to reduce the impact of petrol prices. My home state of Queensland is forecast to get over $7.7 billion in GST revenue in 2005. Other states are also awash in GST revenue and they can do something. They can follow the lead of the Queensland government, in this instance, and try to alleviate the impact of petrol prices. The Australian Labor Party comes to this parliament being very lazy and sloppily in its policy development. It is an opposition that is failing to do its homework. It is in policy freeze and the people of Australia should know that. (Time expired)

Mr Windsor (New England) (4.28 pm)—I listened with interest to the member for Ryan, the previous speaker on this matter of public of importance. There were a couple of comments that I would pick up on, though. He spoke early in his speech about the global economy, quite rightly, and I think he inadvertently hit on an issue that we really do need to address. What we do in this country is produce a lot of products internally, surplus to our own needs, and export those products, generally into corrupt world markets. There have been a number of initiatives to try and break that nexus. The grain industry, in particular, exports something like 20 million tonnes of grain, and the same applies in the sugar industry. I think 80 per cent of sugar is exported into corrupt world markets at what we would consider to be below the cost of production. To become more competitive globally and within the domestic scene, rather than exporting all that product we could be manufacturing renewable fuels. That could have a significant effect not only internally in our regional communities—the general economies of our towns et cetera—but also on the health of the nation.

The other day we listened to the Minister for Health and Ageing saying that in the future we are going to have to make sure that we try to reduce illness, and, in doing that, we will make some savings in relation to the health budget—and I agree with him. But this government is sitting on its hands in relation to this issue of ethanol and biofuels. Rather than exporting grain onto corrupt markets—taking the price that is available and seeing more and more farmers leave their farms because they cannot handle a domestic cost structure and a corrupt world market—and then using some of the receipts to go out and buy oil on another corrupt world market to feed the nation with some energy, what we should be doing is bypassing that so that we do not become so reliant
on those global markets that the member for Ryan spoke about. In doing that, we would ensure that our regional communities would not only get major investment but also get jobs. We would underwrite, potentially, the grain price and have a much greater impact on the domestic grain price, which is totally dominated by export markets at the moment.

The government recognised that in 2001; it put in place a policy to aim for 350 million litres of biofuels by 2010. We are nearly halfway through the decade. There is a cabinet task force that will report in a week or 10 days on this issue, and their report will be essentially what they said in 2001—that we aim for 350 million litres of biofuels by 2010.

The fuel industries know full well—and I am sure other members in here know—that, unless some sort of compulsion is placed upon the fuel companies, they will not accept biofuels, because they see that as removing some of their power in the marketplace. So it will require a government mandate, as in other places all over the world. The United States are building an ethanol plant at the rate of one every 23 days; in its sugar industry, Brazil is increasing its ethanol production at the rate of one Australian sugar industry a year; and, last week, the Philippines mandated the use of ethanol in petrol. For people in this place to say, as they have in recent weeks, that a mandate is something that a coalition government should not look at is absolute nonsense. We have mandated the non-use of lead in petrol for health reasons; we have taken out high sulfur levels for health reasons; we have mandated that.

I was disgusted the other day to see the Grains Council of Australia, when they are there to represent the grains industry, saying that motorists should have choice. I used to be a member of that body, and I am disgusted at their performance in trying to encourage higher grain prices for grain producers.

In recent days the minister for health, again—and I agree with him—has been talking about the use of Opal fuels in some parts of Central Australia, for health reasons, for Aboriginal communities. That is a mandate. Why can’t we mandate 10 per cent and move, over the next decade, to a graduated introduction of ethanol into our fuels? In my view, this dogma we are being fed that it would reduce choice in the marketplace is code for saying that we are captive of the fuel companies. The government is captive of the fuel companies.

If the government could approach it in a completely new direction, it could listen to the scientists who are saying—

Mr Katter—Hear, hear.

Mr WINDSOR—that the addition of ethanol is not only good for country towns, sugar producers and the farmers et cetera; it is also successful in oxygenating fuel—it is a natural oxygenator of fuel. What is happening in California and in other parts of the United States, in particular, and in other parts of the world—because of the fine particle emissions from our modern engines, the need for our modern engines to have high-octane ratings, and the carcinogenic additives that are put into the fuel mix to generate those high-octane ratings—is that they are using ethanol to replace the nasties, the MTBEs. I am sure the member for Kennedy will reflect on that.

If the government is not keen on coming from the direction of assisting agriculture, and the National Party wants to walk out on the farming community once again, why not adopt the direction that they have on leaded fuels, with the removal of lead; on the removal of high sulfur from diesels; and on the introduction of Opal fuels to help prevent
petrol sniffing and the death of Aboriginal youngsters? Why not come at it from that angle and move away from the dogma that the Grains Council has adopted that the motorists must have choice?

We live in a community where we regulate. We have spent days here talking about how we are going to regulate Telstra. I did not hear those same people jumping up and down and saying that it should be fully deregulated. Of course, governments are there to do something in relation to the health of the nation.

The other thing that the member for Ryan talked about is that the government has frozen fuel excise at 38c a litre. But it also removed the Fuel Sales Grants Scheme, which was put in place when the goods and services tax was introduced, to cover the gap between the higher price that country residents paid and the lower price that city residents paid and the difference in the goods and services tax between the two prices. The government removed that. Essentially that means an increase in price to country people. So, even though I agree with freezing the 38c a litre excise—the government has done that—there has been an increase of 1c to 3c in fuel pricing under the government’s taxation regime because of the removal of the Fuel Sales Grants Scheme.

The federal government raises about $14 billion federally in excise. The states raise about $4 billion—according to my calculations—in GST. Currently we are hearing that there has been a 25 per cent increase in price in the last three months. That is an extra expense to motorists of $9.3 billion. If we look back, particularly at city areas, where it was 70c and is heading for $1.50, we see that an additional $2.4 billion in GST has been raised through that gap.

I agree with the Minister for Transport and Regional Services, who was here earlier, when he said that the states can do something in terms of their GST receipts and they should do something. But the federal government can do something as well. We pay 51c a litre tax in this country for fuel by way of goods and services tax and the federal excise. So, when people say we have to be globally competitive, we really have to look at the taxation structure that we have in relation to fuel, and the states and the federal government have a role to play. If we are serious about addressing this issue and making this nation as globally competitive as it possibly can be, we have to look at those taxation-raising measures from both a federal and a state perspective. I conclude by saying we must look at renewable energies for the future. (Time expired)

Mr KATTER (Kennedy) (4.38 pm)—I will review the world situation, as did the previous speaker, my colleague the honourable member for New England. It never ceases to amaze me in this place that we keep being told that we must accept the inevitable, that we must have free markets. I just get so sick of hearing that. That anyone in a position of influence, such as the Minister for Transport and Regional Services, could still be preaching that garbage, when even a dull-wit—

Mr Johnson interjecting—

Mr KATTER—Sorry, I withdraw those unparliamentary remarks. Even a person like that who have to know—for the information of my fine friend over here, who is passing pejorative remarks about me—that you simply go to the OECD web site to find out that 49 per cent is the average subsidy for agricultural commodities in the world. You sit here, my friend, and you laugh at people like me. Instead of coming in here and laughing like a hyena and making like a galah, it would be desirable that you take yourself off and do a little bit of homework so that you
do not come in here and make a fool of your- 
sell, such as your colleague the honourable 
minister—

**The DEPUTY SPEAKER (Mr Jen- 
kins)**—The honourable member will address 
his remarks through the chair.

**Mr KATTER**—Brazil is on 22 per cent. 
We have heard from the government and 
from the oil companies and from the 
NRMA—they are a spokesman for the oil 
companies. There is a club here. The NFF 
belongs to it; the NRMA belongs to it; all 
these people belong to that club. We have 
heard that cars break down if you put ethanol 
in them. There are about a hundred million 
cars in Brazil. They are all breaking down, 
are they? Minnesota has been on 10 per cent 
ethanol for 15 years. All the cars in Minne-
sota are breaking down, are they? California, 
with 26 million cars, is now on 10 per cent 
ethanol. Are the people that occupy the state 
and federal legislature in the United States 
all dimwits? New York is on 10 per cent 
ethanol. The United States passed legislation 
last month to move to five per cent by the 
year 2012.

We say that we must get in step with the 
rest of the world. If we got in step with the 
rest of the world, our agricultural industries 
would enjoy subsidy levels of 49 per cent 
instead of about two per cent, which they are 
presently on. The EU transportation and en-
ergy committee has recommended a target of 
seven per cent for the European Union. It is 
now so lucrative that for the last two weeks 
we have been fielding telephone calls from 
Geneva and London and those sorts of places 
wanting to get hold of Australian ethanol. 
Sadly, Australia does not have any ethanol. 
This did not make a lot of publicity because 
the United States is already on three per cent 
ethanol by law. It is not a law that says you 
have to put ethanol in; it is a law that says 
you have to have healthy tailpipe emissions. 

That is what forced the issue in the United 
States and that is why they are on three per 
cent.

Japan, as the national media in Australia 
has reported, is already trialling it with Bra-
zil. There are discussions and negotiations 
taking place right at this moment. The only 
reason Japan is reluctant is that the only 
place it can get supply from is Brazil. It is 
desperate for Australia to come in; Japan will 
then feel much more comfortable. The Philip-
ippines, as my colleague has already men-
tioned, has moved to mandated ethanol. 
China and India are both building plants as 
we speak. The only country on earth that 
appears to be doing nothing about it is the 
country that believes its farmers can work off 
a level playing field whilst the rest of the 
world lives off 49 per cent.

We are talking today about the price of 
fuel. I talk about things that I know about 
here. Wright Killen and Fluor Daniel of 
Texas did work for the Queensland govern-
ment which dates back to 1890—I should 
say 1990, although they were using ethanol 
then, I might add. The figure used by the 
Queensland government study, the figure 
used by us, the figure I have been working 
on, is 600 litres per tonne. I was corrected 
the other day by a Brazilian, who said it is 
between 650 and 720: ‘Your figures are old, 
Mr Katter.’ I said, ‘They are; they are 1990 
figures. Technology has moved on.’ It is 600 
litres a tonne. If we require in the sugar in-
dustry $360 a tonne for our product, then that 
is 55.4c you pay the food stock producers—
the sugar industry. There is a 9.5c processing 
cost for grains, which is much cheaper with 
sugar. They have to convert to sugar, then go 
to alcohol. We are already at sugar; we do 
not have that conversion. So it is much 
cheaper. But I will use the figure of 9.5c and 
an excise of 12.5c. This government is the 
only government in the world that has taxed 
ethanol, as far as I can make out. Certainly in
Europe it is not taxed. So this is the only government on earth that taxes it. And the transport minister has the hide to come into this place and say, ‘Why don’t you do something about ethanol?’ But let me go on. That is 77.4c a litre. I repeat that to the House: that figure is 77.4c a litre. We can provide for you petrol at 77.4c a litre. The retail is put on top of that, so let us say that is 6c, and there might even be another 6c for transport costs—I will be very generous and allow that—so that would take it to 90c. Out there we are paying $1.30 and $1.40 a litre for petrol. The answer is right here. You can move on it tomorrow. You just might rescue the ailing sugar industry of Australia and you just might be able to make the grains industry of Australia competitive.

On behalf of the people in the boondocks, I ask the people that represent these industries to please discount them. They are irresponsible people; they have never represented the people they are supposed to represent. Doug Anthony introduced, over the top of the leaders of the wool industry—he trampled all over them and rode a steamroller over them—the wool bill and it doubled the price of wool. So we laughed and scoffed at the so-called industry leaders at the time.

I have quoted figures that are very conservative. The real figures are about $300 a tonne for sugar and there are 650 litres to 720 litres to a tonne, but again I will take the conservative figure. That works out at 46.2c a litre plus 8.5c. I will deduct 1c a litre for the processing cost, which I think is very conservative, and will add the 12.5c a litre for the government charge. That is 66.2c a litre. This document has petrol at 45c, which it was. If you add 38c excise, it is 83c a litre—plus retail, that was about 90c a litre when this document came out. It is now at $1.40. When is the government going to act?

That is not the reason why other countries have gone to ethanol. America challenged Brazil in the WTO; the case was thrown out. Brazil said: ‘We have a right to produce our own oil, and we have two of the most polluted cities on earth where people are dying that do not have to die’—Sao Paulo and Rio de Janeiro. Professor Ray Kearney, the leading authority in the country in lung disease, has said that people are dying that do not have to die. Tom Beer, the leading authority on air pollution in Australia, has said that people are dying. Both of them—both leading authorities in this country—are on record as saying that more people are dying from motor vehicle exhaust than from motor vehicle accidents. That is verified for anyone who is interested. If you get the congressional report, the information paper which is given to congressmen and senators in Washington DC, you will see exactly the same thing in that report.

I have mentioned on many occasions the journal of the AMA in the United States. On page 1137 there is a graph which shows that when the pollution levels double in the United States the number of people that die of lung cancer doubles. What is the government doing about it? Mr Truss, the Minister for Transport and Regional Services, came into this place and had the hide to accuse the ALP and to say they should get on side and support ethanol. What is he doing to support ethanol? Would someone tell me? He is the government minister for transport. When I first proposed ethanol, he attacked me and said: ‘It will only help the Brazilians.’ When that was laughed to ridicule, he then said: ‘You cannot mix it. It would have to be brought down to Brisbane to be mixed, so you cannot do it.’ I was at a seminar and the bloke said: ‘It is very difficult to mix.’ Another one he came up with was ‘It causes cancer’ and ‘Your car will break down.’ He has produced a report that says not to do it.
Who do we blame? We blame him. *(Time expired)*

The DEPUTY SPEAKER (Mr Jenkins)—Order! The discussion has concluded.

PERSONAL EXPLANATIONS

Mr FITZGIBBON (Hunter) (4.48 pm)—Mr Deputy Speaker, I wish to make a personal explanation.

The DEPUTY SPEAKER (Mr Jenkins)—Does the member claim to have been misrepresented?

Mr FITZGIBBON—I do indeed, on numerous occasions. I did not want to interrupt the MPI; this is my first opportunity.

The DEPUTY SPEAKER—The member for Hunter may proceed.

Mr FITZGIBBON—Mr Deputy Speaker, you will recall that I had a discussion with Mr Speaker after question time about a misrepresentation from the minister for small business. As a consequence, the minister finally tabled the transcript to which she had been referring. I note that she did not take the opportunity to read the transcript in full. Anyone who reads the transcript will clearly understand that I was speaking about a perception in the small business community over unfair dismissals—a perception deliberately brought up by former minister Reith. I made the point that, yes, my wife is concerned about unfair dismissals off the back of that perception, but her employees work under state awards. My point was that Peter Reith had been deliberately placing this perception in the small business community, putting fear into the minds of people who are not even affected by federal legislation.

PROTECTION OF THE SEA (SHIPPING LEVY) AMENDMENT BILL 2005

Report from Main Committee

Bill returned from Main Committee without amendment; certified copy of the bill presented.

Ordered that this bill be considered immediately.

Bill agreed to.

Third Reading

Mrs DE-ANNE KELLY (Dawson—Minister for Veterans’ Affairs) (4.50 pm)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

HIGHER EDUCATION LEGISLATION AMENDMENT (WORKPLACE RELATIONS REQUIREMENTS) BILL 2005

Second Reading

Debate resumed.

Ms GEORGE (Throsby) (4.51 pm)—I must say how good it was to sit and listen to the speeches of the member for Kennedy and the member for New England and hear them actually articulating some creative strategies in terms of the need for this country to take seriously the issue of renewable energies. It is certainly a contrast to the Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005, which I am now going to speak on—a bill that I oppose. This bill is not creative thinking for the future; it is another reflection of the ham-fisted bullyboy tactics that we see coming from the government, particularly in trying to foist its regressive IR changes onto the workforce and specifically, in this bill, onto the workers in the higher education sector.

For those reasons, I oppose this bill. It is ham-fisted, it is another indication of bullyboy tactics and it reflects a desire by this government to micromanage the higher education sector by forcing onto that sector conditions of employment and IR changes that really have nothing to do with that sector. In the era of enterprise bargaining, that sector...
has shown that it is quite capable of managing to negotiate good outcomes through enterprise bargaining. In a sense, I think this bill reflects the desire of the government to thwart those productive relations by trying to insist that conditions of employment that are not necessary for that sector be a condition of future funding.

As we know, in late 2003 this parliament allocated funds for universities for the period 2005-07. These funding arrangements are now about to be changed—retrospectively if the bill sees the light of day and gets through the Senate, where similar proposals have been blocked in the past. The government wants us to amend the Higher Education Support Act to provide for the inclusion of new ‘workplace relations requirements’—and of course that is code for ‘individual contracts’—as a precondition of eligibility for the $280 million of additional assistance funding that was promised to the universities under the Commonwealth Grant Scheme.

These increases to the basic grant will, if this legislation gets through, depend on the universities consenting to a raft of regressive IR changes. In the end, the funds will be contingent on the minister’s approval. It is certainly transferring a lot of power to the minister, who, as we know, seems to want to ensure that his view of the world is imposed on the workers in that sector. What I find most offensive is that $280 million of additional funding—which is sorely needed in that sector; universities desperately need that money—will be at risk unless universities comply with a range of conditions that the minister wants to impose and will tick off. This is blackmail of the worst kind.

Through these new requirements, the government is seeking to directly dictate the form of industrial agreements that should be offered to staff and to micromanage conditions of employment. I find that amazing, because the government has double standards on this issue. On the one hand, it says that the unions ought to leave the field free for employers and employees to negotiate their own arrangements—precisely what is happening in the sector—but, on the other hand, when those arrangements do not suit, when the outcomes of those arrangements do not suit, the minister wants to override them and impose on that sector very regressive and backward-looking industrial relations changes. Whilst today the federal government provides only 40 per cent of university revenue, increasingly forcing the burden onto students and their families, it wants to control 100 per cent of university workplace relations. It is a joke.

As I said earlier, the government tried to link similar changes to university funding in 2003, but that was stopped in the Senate. We are naturally very concerned about the fate of this bill when it gets to the Senate, with the changed composition in that chamber. As I say, ‘workplace relations requirements’ is really code for the notorious individual contracts which this government sees as the centrepiece of its deregulation of the industrial relations sector. It is clearly an attempt to erode the successful enterprise agreements that have been negotiated on behalf of staff across the nation, in every university, in particular by the NTEU, the union in that sector.

Because of changes to the award system, minimum conditions of employment for university staff are now set out in collective agreements. Agreements reached between universities and local branches through the enterprise bargaining process are now very much at risk. It seems to me to be nothing but a ham-fisted approach when you consider that universities are now in their fourth round of successful enterprise bargaining, which they have conducted very successfully at every university across the nation.
In this sector, enterprise agreements cover all staff, and they provide for key employment conditions—not just salaries but issues to do with parental leave, Indigenous employment, intellectual freedom, collegial decision-making processes, peer review committees, workloads, redundancy matters, classification issues and the regulation of contract and casual employment and related matters. I stress that latter aspect of the bargains, because across the workforce we are genuinely concerned about the huge growth in contract and casual employment. The issues of tenure and precarious employment are very big issues in the tertiary education sector.

What the unions have successfully achieved is a guarantee that the actual conditions and rates of pay are better than the minimum standards that applied in the award system. For example, if you take the closest university to us, the Australian National University, the award rate of pay for a senior lecturer is $57,000, but due to the success of the negotiations, the enterprise rate for that senior lecture is around the $72,000 mark. For a level 6 general staff member, the award rate is $38,000, compared with $48,000 under the enterprise agreement.

These outcomes clearly indicate the success of the unions in that sector in sitting down and negotiating with employers and university management to produce outcomes that are in everybody’s best interests. As I said earlier, this is the fourth round of negotiations that have occurred in this sector. The success of the university enterprise agreements in protecting the wages and conditions of staff—both academic and support staff—has obviously become a thorn in the side of the government’s deregulation agenda. Put simply, in the government’s eyes the union has done too well in protecting the interests of its members. Otherwise there would be no rationale for this legislation coming before us.

To break these very successful arrangements, which have applied for years, the government now has to actually legislate to extend the reach of individual contracts, AWAs, into the university sector. The bill prescribes that universities must offer AWAs to all new staff members employed after 29 April 2005 and to all existing staff by 31 August 2006. This makes a mockery of the government’s professed commitment to the principle that negotiations are best left to the parties at an enterprise level. They drag out rationalisations that are totally inconsistent, depending on the outcomes they want to achieve. We were told that the negotiations ought to be left at the enterprise level; now we are being told that you cannot leave them because the spread of AWAs has not been to the extent that they want.

As we can see, if the outcomes that are freely negotiated—as they have been in this sector—are not to the government’s liking, they will resort to a legislated option to push their agenda. What they have failed to realise, or what they perhaps have not studied closely, is that agreements in the university sector already allow managers to offer individual contracts in accordance with the government’s Workplace Relations Act. But the conditions that are currently on offer under individual contracts cannot override the enterprise agreement. So there are protections built into the system; there is a floor beneath which workers in that sector cannot fall if they sign up to an individual contract.

The government is arguing that AWAs are needed to attract and reward top staff, but again it does not seem to understand what is going on in the sector. Individual contracts can already be offered under current enterprise agreements, provided that these contracts do not provide conditions below the
enterprise agreement minima. Existing agreements in this sector currently provide for performance based contracts for senior managers under which certain provisions of the agreement, like tenure, do not apply. The government should understand that around 30 per cent of staff in the sector are already employed on individual contracts of some sort and the payment of market and merit allowances is widespread. That being the case, the government’s decision to legislate the spread of individual contracts is clearly unnecessary and is nothing more than an ideological obsession.

As people are aware, individual contracts in the tertiary education sector are approved by the Office of the Employment Advocate on the condition that they pass the no disadvantage test. In the example quoted above, the relevant benchmark for approval of an AWA for a senior lecturer or level 6 general staff employee at the ANU would be $57,000 and $38,000 respectively—up to $15,000 lower than the actual rates of pay under the agreement. But, as we all know, if the government has its way this will change in the future as pay rates in AWAs will be measured against the minimum wage and not the relevant award standards. You can see where this is heading. You cannot divorce this bill from the overall agenda that the government will bring before this House in pursuit of its ambition to reduce minimum standards to a handful of legislated conditions and to allow the award system to wither on the vine.

The new requirement that institutions must include a clause in agreements that expressly allows individual contracts to operate to the exclusion of the enterprise agreement means one thing and one thing alone. Under this bill, if carried, AWAs will be able to undercut conditions in agreements—make no mistake about that. This must be of concern to all employees in the sector but, I would argue, of particular concern to all future new employees looking to make a career in the tertiary education sector.

So that is the heart of it. The government want to enforce the imposition of individual contracts of employment and to micromanage industrial relations in the university sector, to have 100 per cent control, even though their contribution in terms of funding arrangements is about 40 of the total cost.

Let us go on to discuss some of the details of the other provisions in the bill. The government say that university agreements, policies and practices must provide for ‘direct relationships with employees’. We know what that means. That is code for trying to get rid of the unions from the sector. The government want to exclude the unions from having a role in consultative processes for staff in negotiating university agreements. Third party involvement—as they refer to it—must only occur at the request of an affected employee and not by right.

Let us look at the issues to do with so-called ‘workplace flexibility’. We know that in the jargon of the industrial relations debate flexibility is always a one-way street—it is flexibility that suits the needs and aspirations of the employers rather than flexibility that meets the needs of workers in the sector. What the government wants is for university agreements, policies and practices to not limit or restrict the university’s ability to make decisions and implement changes in respect of course offerings and associated staffing requirements. So the government wants to abolish existing agreement provisions that guarantee certain processes prior to management initiated change, including changes that lead to staff reductions, to restructuring and to downsizing. It requires: University agreements policies and practices must not place limitations on the forms and mix of employment arrangements, and must be simple, flexible and principle-based, avoiding excessive detail and prescription.
Talk about jargon. I think what the government is saying is that, through this provision, it is seeking to wind back award based agreement provisions that regulate the use of fixed-term and casual employment and remove many of the detailed consultative and committee procedures relating to unsatisfactory performance, misconduct and termination. The government’s focus is on removing the limits that currently exist in many of the agreements for casual employment. Once it does that, this can only exacerbate problems facing university staff and it will lead to excessive workloads, spiralling staff-student ratios and greater job insecurity in that sector.

Finally, let me say something about the productivity and performance criteria in the legislation. The government wants to ensure that university agreements, policies and practices include performance management systems that reward high-performing staff and ‘efficiently manage core performing staff’. We know what that means. It means that the government has as its objectives abolition of skill based classification structures and incremental progression provisions—which appear in many of these agreements and are quite common in the education sector—and movement to a point where it can replace them with a single pay point for each classification with discretionary so-called performance based additional payments.

Lastly, let me say something about the freedom of association provision. University agreements, policies and practices, the government says, must be consistent with the freedom of association principles contained in the Workplace Relations Act 1996. We know what this means. It is code for trying to restrict the rights of unions to freely represent their work force while having provision for reasonable rights of entry. I can see this meaning that universities will look at not including in future in their agreements provisions that encourage union membership or provisions that might fund or support a union in any way, shape or form.

In short, the provisions under this bill, which I oppose, will put at risk up to $280 million in university funding if universities do not comply with this minister’s policy directions. These provisions will force universities to offer individual contracts to all university staff—and potentially on conditions inferior to those in current agreements. They will limit the scope of current and future standards. They will undermine the role of a union in agreement making and in representing members. In addition, agreements reached between universities and unions will now have to be vetted for compliance. These measures, in my view, directly threaten the autonomy and independence of universities and the employment conditions of university staff that are freely negotiated between the union representing the workers and the management.

Of great concern is that one person—the minister—becomes, in effect, the judge, jury and executioner on university industrial relations. Under this bill, the minister can decide whether the provider is meeting the guidelines; the minister can refuse funding to any provider the minister deems not to be meeting the guidelines and, it seems, can change the guidelines at any time the minister sees fit. This bill would allow the government to tell universities what to do when employing staff and would allow it to interfere with their management processes and their everyday running. This, regrettably, is a taste of things to come under the Howard government’s extreme and divisive IR agenda, where we know that the wages and conditions of employees will be cut under its new deregulation model. If that is not the intent, why is it that, despite repeated attempts, we have not been able to get the Prime Minister...
to guarantee that no employee will be worse off under the government’s changes?

On this occasion, universities desperately needing funding will be blackmailed to accept the government’s ideological agenda. It will be hard for many in the sector to resist the imposition of unjust, unfair and unwarranted changes when they are struggling with totally inadequate funding arrangements from this federal government. Australia’s investment, as we know, has dropped substantially and I think this direction is quite unacceptable. *(Time expired)*

Mr HENRY (Hasluck) (5.11 pm)—It is certainly interesting listening to the member for Throsby’s remarks about restricting the rights of unions and her comments about the principles of freedom of association. But, in reality, she is talking about reducing the rights of individuals to choose whether they want to be in a union and whether they want to enter into agreements of the sort provided by the higher education sector. In the higher education sector, the union movement has created a nice cosy closed shop environment that does not provide the choice that the Howard government wishes to provide through its reforms in this workplace relations bill. Choice is what it is all about—the opportunity to offer alternatives in the employment relationship between employer and employee.

It is my belief that workplace relations reform in Australia is crucial if we are to remain competitive in world markets and to continue to enjoy the fruits of a robust, growing and modern 21st century economy. The reforms are designed to ensure that Australia’s work force and the work practices that operate within the work force, when benchmarked against international standards, are flexible, productive and cost effective. They are designed to remove anomalies—some of which are ridiculous and some of which are sublime, but all of which are entirely gratuitous—and increase choice as well as to reward those who work hard in whatever is their chosen field of endeavour.

No sector of our economy can—or, indeed, should be allowed to—stand aloof from the workplace reform imperative that is essential for Australia’s continuing economic success. Indeed, the IMF, the OECD and Access Economics have all commented on the need for further workplace relations reforms to increase labour market flexibility if Australia is to continue to prosper and grow. Our nation’s universities and higher education institutes are certainly no exception to this rule; they have a part to play. That is why I am pleased to have the opportunity today to speak to the House in support of the Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005.

Unlike the Labor Party, the idea that academia can stand detached from a changing world, resistant to change and the need to be competitive, is not one I would promote or in any way could champion. Indeed, I support the view expressed by the Minister for Employment and Workplace Relations when he said that the higher education system is not immune from the global pressures faced by other industries. The reality is—and the minister is spot on—that our universities are operating in a dynamic environment. They face a number of challenges: overseas competition for students and staff, the rise of private education providers and increasing commercial activity.

In relation to competition, the number of students opting for a private university education is increasing considerably. Publicly funded universities must adapt to this new reality or they will become irrelevant. An article entitled ‘Students flocking to private universities’ in the 7 January edition of the *Sydney Morning Herald* noted that from
2003 to 2004 student enrolment in New South Wales universities dropped by more than five per cent. It was fairly static nationwide but grew strongly at Australia’s two principal private universities. Notre Dame, a private university in my own state of Western Australia, saw student numbers increase by almost 25 per cent during this period.

The need for universities to compete nationally and internationally is well recognised. Workplace reform as outlined in this bill will help them achieve that. An article entitled ‘Great brain robbers’ that appeared in the Perth Sunday Times on 9 January 2005 highlighted the drain of the state’s top students to eastern state and foreign universities. The article noted that the state’s top five students, whose results in the year 12 exams were frankly outstanding, chose to head east or overseas to undertake their degree studies. The journalist writing the article posed the question: have Western Australian universities done enough to ensure that they represent an attractive alternative to a trip abroad or across the Nullarbor? My argument would be that, by embracing the reforms outlined in this bill, those universities—Edith Cowan, Murdoch, Curtin and UWA—will have the tools they need to attract top students. Through the reforms set out in this bill, the universities will be able to attract and retain the best staff available and, in doing so, they will make themselves more appealing to would-be students in WA and to international students considering Australia as an option for their degrees and postgraduate studies.

At the heart of the Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005 is the recognition that, for our universities to be internationally competitive, workplace arrangements within these institutions must allow for greater choice for staff and for increased flexibility. The measures contained within this bill will provide for more freedom, flexibility and individual choice and will ultimately ensure the long-term sustainability of the higher education sector.

There should be no doubt that, if our university system is to remain internationally competitive, the workplace environment that operates within these institutions must allow them to be in a position to attract, retain and appropriately reward the very best staff available to them. This will ensure that Australia’s universities and higher education institutes continue to gain recognition as centres of excellence and as internationally acclaimed seats of learning and research into the future.

Within Western Australia, universities are certainly keen to pursue the overseas students’ dollar and the benefits that accrue from that. An article entitled ‘United front to sell the west’ that appeared in the Australian on 1 December 2004 highlighted the fact that overseas students pump over $1 billion a year into Western Australia’s economy and support around 5,000 jobs.

Make no mistake about it: competition to attract overseas students is hotting up and is becoming increasingly aggressive. The well-publicised financial difficulties experienced by the independent company IDP that was set up by Australia’s universities as a vehicle to attract overseas students were no accident or case of bad luck. As highlighted in an article entitled ‘Warnings existed over foreign competition’ that appeared in the Australian on 9 February 2005, these difficulties reflected a failure by IDP and the universities to anticipate the speed with which the competition for international students would grow. The article went on to say that the salad days of international recruitment could not last and that the harbinger of tougher times was the ramped-up efforts of traditional higher education suppliers in the USA, Canada and Britain, as well as the develop-
ment by these suppliers of strategic alliances with emerging key locations in China, the Middle East, Malaysia and Singapore.

Given the very real boost to local economies that higher education establishments with their overseas student populations represent, it is essential that Australian universities continue to be held in high regard within the international community. This bill will mean that universities will be able to attract and keep staff of a sufficient calibre to ensure such desirable outcomes.

The Howard government provides around $8 billion a year in funding to the higher education sector. The government has committed more than $11 billion of additional support over the next 10 years through the Our Universities: Backing Australia’s Future initiative as an expression of support for this sector of the Australian economy. This is a considerable investment of public money, and the government has a duty to ensure that this sum is well spent and well invested for the future and that, when it comes to higher education spending, Australia is getting real value for money.

Despite any assertions to the contrary, the reforms outlined in the bill are not about driving down wages, eroding conditions of employment or taking away the rights of university employees. The member for Throsby mentioned issues of enforcement of agreements et cetera. The only issue is that ‘enforcement’ is a key word for the unions and for their Labor colleagues with respect to closed shops, no ticket, no start policies, lack of flexibility, prescriptive working arrangements and absence of choice for workers in how they are employed. Such claims are, therefore, plainly absurd.

This bill provides the framework for a system that focuses on greater freedom and flexibility. It gives employees the ability to choose the types of workplace agreements that suit them. Australian workplace agreements provide employers with greater flexibility than certified agreements—flexibility to provide bonuses and other incentives for good performance. It is that kind of flexibility and ability to offer an attractive employment package that will help our universities to recruit and retain the high calibre of staff they need. Having high-calibre staff who drive excellence within the university and ultimately influence perceptions about the university amongst those wishing to do graduate and postgraduate courses is one of the keys to future proofing the higher education sector.

Australia has been variously described as the lucky country and the knowledge country. Without workplace reform within the higher education system and other sectors of our economy, I am convinced that it will qualify to be neither of these things. It is my belief that universities are failing to recruit and retain the talented academic staff they require to continue to deliver a first-class learning environment and to undertake the research that often makes or breaks a university’s reputation. In this respect, figures suggest that the salaries that are currently being offered to the highest calibre of staff are certainly less competitive than those being offered for similar positions overseas and, indeed, those being offered by the private sector.

The two research reports into academic salaries—Salaries relativities and the academic labour market and the Australian academic salaries time series project—which were released in May 2005, confirm that universities are increasingly struggling to fill positions both at the entry level of the salary range and, at the top end, at professor level. That is certainly very worrying and suggests that, unless the situation is tackled, the long-term quality of Australian higher education may well suffer. Unless universities commit
to becoming more competitive in the international labour market and to offering better career opportunities, the reputation of higher education in Australia is, in my view, very definitely under risk. This bill demonstrates the government’s commitment to ensuring that our universities have a greater capacity to offer attractive employment packages to their staff and to provide workplace arrangements that best reflect the needs of their employees.

The traditional tenet of academic tenure, where jobs are for life, is long gone. Universities need the best staff available to them. They face a stark choice between becoming either degree factories or world-class research and education institutions with a reputation amongst businesses and industry and within the community to match. In my own state of Western Australia, that realisation, as highlighted in an article that appeared in the Australian on 22 June 2005, led to calls by the Vice-Chancellor of Edith Cowan University, Millicent Poole, for the creation of the nation’s first mega-uni that would serve the needs of around 70,000 students.

This legislation provides the framework for our universities to structure themselves in such a way that they can make certain of their academic relevance and attractiveness to the higher education market. Ultimately, higher education institutions that focus on churning out graduates and that have lost their focus on research and academic excellence are not, at least in spirit, if not in the letter of the law, universities. They are really colleges with little more than a factory approach to education. It was the English broadcaster and journalist John Tusa who famously said:

Management that wants to change an institution must first show it loves that institution.
I am not sure about love—perhaps I would hesitate to go that far—but the government certainly holds the public higher education sector in high regard, and that regard is well demonstrated by the coalition’s willingness to continue to invest in the sector’s future in return for beneficial changes in the workplace.

It has been said that everyone’s life opportunities are diminished by restrictions on the freedom to work. It has also been said in terms of industrial relations that to stand still is to go backwards. The coalition government’s raft of workplace relations reform legislation, of which this bill forms a part, is about ensuring all sectors of our economy can move forward and remain vibrant. By doing so, those choosing a career path within that sector of the economy benefit from not only increased employment opportunities but also enhanced career paths. In essence, that is the outcome that the Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005 seeks to deliver.

The workplace relations changes proposed do not represent change for change’s sake. Rather, the reforms being proposed by this bill will deliver some very desirable results. They will also have no impact on academic freedom and all the other associated activities so traditionally beloved of academia. Nor does this bill seek to make decisions for universities regarding the appointment of staff. Such an assertion is far from the truth and palpably wrong. Indeed, the measures will introduce much needed change to the workplace and will help ensure the future competitiveness of Australia’s higher education sector. As such, this bill has my full support and I commend it to the House.

PERSONAL EXPLANATIONS

Mr CAUSLEY (Page) (5.27 pm)—Mr Deputy Speaker, I wish to make a personal explanation.
The DEPUTY SPEAKER (Mr Jenkins)—Does the honourable member claim to have been misrepresented?

Mr CAUSLEY—Yes.

The DEPUTY SPEAKER—Please proceed.

Mr CAUSLEY—Today the honourable member for New England sought some clarification from the Speaker on the use of the word ‘bribe’ in this chamber. He said:

... Mr Speaker, on 22 May 1996 the member for Page, the current Deputy Speaker, used these words:

... it is clear that the previous Labor government bribed the maritime unions of Australia so as to encourage the sale of ANL ...

I have checked the Hansard on the debate on the Shipping Grants Legislation Bill 1996 in which I made a contribution, and the exact quote is this:

There is no doubt that the only reason that the Labor Party members are here in strength defending this piece of legislation is that it was brought in as a bribe to the maritime unions, their mates who fund them.

It is obvious that the member for New England was not quoting accurately, and the fact that he was named in this House was not because of the use of the word ‘bribe’ but because he refused to obey the chair.

HIGHER EDUCATION LEGISLATION AMENDMENT (WORKPLACE RELATIONS REQUIREMENTS) BILL 2005
Second Reading
Debate resumed.

Mr HAYES (Werriwa) (5.28 pm)—The dead hand of the government’s industrial relations agenda has emerged once again in the Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005. It is not unusual for us to be presented with bills that seek to establish systems through which taxpayers’ money is distributed to various groups throughout the country and on which the government seeks to piggyback its uniquely Liberal industrial relations requirements. Now it is the turn of the higher education sector. But it is not enough for the Minister for Education, Science and Training just to attach certain industrial relations requirements for the universities sector, and it is not enough that, in order to receive Commonwealth funding, considerable changes to the higher education sector be made; the minister wants to go further and appoint himself as the judge, jury and executioner when it comes to administering university industrial relations.

Of course, it is not the first time that this has been tried in the higher education sector. In 2003 the government made an attempt to pass legislation that would impose unreasonable industrial relations conditions on those working in Australian universities. After considerable debate—and negotiation, I might add, with the Senate at the time—the government was forced to remove the industrial relations proposals in order to get the rest of the package through. Unfortunately, we now have a different environment and certainly a different make-up in the Senate. We have a government drunk on its own power, with this minister willing to reintroduce the requirements that were not supported in 2003.

The reintroduction of previously rejected provisions is really becoming a disturbing trend with this government. It seems that the government never misses the chance to spread the tentacles of its industrial relations agenda into yet another group. When we have a bill appropriating funds or setting up schemes in which taxpayers’ money will be spent, we always seem to have the obligatory industrial relations clause attached to it.
I can only imagine what the cabinet meetings would be like when they discuss bills such as this. It seems to me that you would have the Prime Minister sitting there with his colleagues all contemplating the bills and what could be grafted onto them. What is conjured up in my mind is almost akin to that rather prominent fast food restaurant. The bills are coming in and you have the Prime Minister asking, ‘Do you want my IR with that?’ These ministers have caught on pretty fast. They know that, unless they say yes, they will not be getting their bill approved and they will not be getting their money. In fairness to that very famous restaurant with golden arches, at least you can decline the fries; it does not seem that you can decline the IR when it is attached to appropriation bills.

The attitude seems to be that, if you want to spend money, you had better work pretty hard to find ways to advance the Prime Minister’s industrial relations agenda. Of course, in this bill the Minister for Education, Science and Training has trumped his ministerial colleagues. Introducing an industrial relations requirement under which organisations receiving funding would require offers of individual contracts to be made—that is not enough. Always striving to go that little bit further, maybe because of some real and genuine leadership qualities, the minister for education has ensured that the industrial relations requirement under this bill not just is consistent with but goes beyond the government approaches—at least in terms of the government’s stated intentions for the Australian work force.

The Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005 specifies that every university employee must be offered an Australian workplace agreement by 31 August next year. That is every single employee. The minister in his second reading speech on this bill claimed that it was necessary to introduce these measures ‘if Australia was to remain internationally competitive in the provision of higher education’. He went on to say:

The higher education sector is not immune from the pressure to adapt, reform and become even more productive. Universities need to be able to respond flexibly to the needs of their constituencies including potential and existing students, staff, employers, industry and local, regional and national communities.

I find the suggestion that university staff are not flexible to be staggering, quite frankly. I am not quite sure of the minister’s personal experience with university staff when he attended university, but from my experience I have always known them to go out of their way and certainly be flexible and do everything they can to assist students. I am very fortunate that very close to my electorate we have the Macarthur campus of the University of Western Sydney. I have known it to be a university of very dedicated people and staff that certainly has served the interests of students in the south-west of Sydney. Through their efforts, we have a first-class institution with faculties in the arts, business, law, teaching and nursing—and soon there will be a medical faculty. Being a local, we are very proud of our university. We are certainly very proud of their achievements and certainly of the commitment displayed by all the staff of the university.

In defending the provisions of this bill, once again we have a government relying on the argument that it is providing choice. The minister would have us believe that the implementation of this Higher Education Legislation Amendment (Workplace Relations Requirements) Bill is all about choice. He claims that university employees will have the choice of workplace agreements, will have the choice of being covered by a certified agreement and will have the choice of
appointing the union to represent them in individual contract negotiations and that there will be no requirement on individual staff members to accept offers of individual contracts. It is the last choice that is often referred to by people I speak to as simply being no choice at all, because it is a choice of having a job or not having a job. You do not have to go much beyond the Boeing workers to find that out—or indeed the staff of the Department of Employment and Workplace Relations—who similarly have that so-called choice. In reality it is simply not there. It seems that ‘choice’ is often used by this government, but I have to say that it is a concept that is not readily adhered to.

The most disturbing choice of all contained in the bill is the level of choice that this bill will afford the minister. Under this legislation, the minister will have the choice to determine whether or not a university has complied. This choice will determine funding, so it is a pretty important one. Control is the essence of the bill, and the minister has not missed his mark on that. The essence of the bill is to make sure that the minister can micromanage universities and their staff relationships.

The minister has made no secret of his bid for power in this regard. It was reported in the Australian Financial Review on 12 September that the minister had written to the vice-chancellors with a warning about the future—yet another example of the sheer arrogance of the government in this regard. The minister has already written to the management of the universities, telling them how things are going to operate, when this bill is currently before the House and being debated. The bill has not yet even passed the House, and the minister is already busy lecturing those who will be implementing the changes on the finer points of how he is going to mark their report cards. The Financial Review reports that the minister has:

... told the university leaders that he will take a strict interpretation of the conditions imposed on more than $280 million in funding and that, ultimately, the decision rests with him as to whether a university has complied with the new rules.

The choice implemented for the minister in the bill is akin to the thumbs up and thumbs down approach we might expect from Roman emperors dealing with decisions of life and death about gladiators. The article went on to say:

Dr Nelson wrote that, for universities to qualify for the funding, he would need to be satisfied they had embarked on “fundamental changes to the workplace policies and practices”.

But the minister does not stop there. Just so the vice-chancellors are absolutely sure what they are required to do to get the thumbs up from this minister, he makes it clear. He says:

Approaches which are focused on minimising, diluting or circumventing genuine reform are unlikely to result in ... compliant workplace arrangements ...

So everybody involved has a choice, so long as the choice they make pleases the government. Interestingly enough, according to the report in the Financial Review, the union is willing to work towards compliant agreements. But the same report indicates that universities are already using the tone of the minister’s direction as the means for cutting staff entitlements. I wonder if this sort of behaviour is yet another sign of the future for all Australian workers. Not only is this the sort of behaviour that the staff of our most prestigious academic institutions are fearful of but it is the sort of behaviour that the vast majority of Australian workers are certainly scared of. The ACTU, for instance, recently reported that 62 per cent of workers believe that they will be worse off under individual contracts and 62 per cent of all respondents believe that individual contracts would do nothing more than give power to their em-
ployers. It is not about a balance; it is a transfer of power. It seems that, on this demonstration, people’s concerns would be justified.

Despite the minister making strong arguments that the changes implemented upon the passage of the bill will promote flexibility and improvements in productivity and performance, it is more likely to tear them apart. It will certainly tear apart cooperative approaches to teaching and research that have developed over many years. Staff members who have shared information for the benefit of their students, who have collaborated on research in the past, will be thinking twice about it in the future. They will think twice about it now because colleagues with whom they have shared the information and collaborated on research are now—or will be—their competitors.

The institution that they are employed by will be competing on the world stage when it comes to attracting research funding and international students, but within their own institutions there will be an absolute, but real, competition taking place between staff. Staff members within faculties will conceivably be competing for better rankings from their students, larger amounts of research funding, better attendance levels, higher average marks from their classes and any other matter to maximise their personal bonuses.

I am sure that in response to this the minister would argue that this is a better outcome as it will be more productive on campus. In my opinion, staff are unlikely to become more productive. They are more likely to become more closeted in their work and divided within their faculties. It is not too far a stretch to imagine that, if incentives were written into staff agreements that are poorly structured, we could have a situation where it is very much a race to the bottom in terms of academic standards and the quality of university education within Australian institutions.

While the individual contracts may meet the requirements of the minister to gain the next round of funding, this will not advance the tertiary education sector one bit, and it will not make our institutions more attractive to international students. Students, including international students, make their choice of institution based on the education that they will receive, not on how successful the institution is in implementing industrial relations reforms. Of course, lately, for many students their choice of institution has been considered through the prism of affordability rather than quality, because of this government’s dereliction of duty when it comes to higher education.

Labor opposes this bill, and it is opposed to this government’s habit of attaching its industrial relations agenda to bills through which taxpayers’ money is spent. The approach of attaching requirements that ordinarily would not bear any relationship to the government’s industrial relations agenda is, quite frankly, a disgrace. The government is clearly worried that the community backlash against its industrial relations agenda is growing. The only way it can progress its agenda is by stealth. The government intends to weave its agenda into various bills so that, at the very least, those sectors of our economy that the government believes will object to the reforms will be the first to be hit with these adjustments.

This bill sets a new benchmark on just how underhanded the government is willing to be in order to institute its industrial relations agenda. The bill is nothing short of micromanagement. I would have thought that members opposite who believe in individualism, the core principle of the Liberal Party, would have objected to a minister seeking to
manage the employment relations of nearly 40 campuses throughout the country.

This bill does nothing more than compromise the independence of Australian university campuses. It makes it even tougher for them to attract and retain the highest quality staff they require, should they wish to please their now all-powerful minister and implement inferior working conditions. Higher education in Australia, and university education in particular, continues to suffer at the hands of the Howard government. This bill is yet another example. Funding cuts since the election of this government in 1996 are estimated at $5 billion. The Higher Education Contributions Scheme has increased and, sadly, $100,000 degrees are increasingly becoming the reality.

The minister believes that a university education is a privilege, and he must now be thinking the same thing about university employment. This attack on our university sector flies in the face of our universities’ bids to expand their services into the growing education markets of South-East Asia. Our primary, secondary and tertiary education sectors need proper levels of support not only to bring opportunities to Australian students but also to remain internationally competitive.

Geographically, Australia is ideally located to take advantage of our South-East Asian neighbours’ desire to advance the productivity of their countries by improving the education of their populations. In order to maximise this advantage we need high-quality teaching staff in our universities. While the minister may have conscientiously set about meeting the demands of his senior colleagues by introducing a bill which will more than match the government’s industrial relations agenda, this bill, quite frankly, is just poor policy. This will not produce a climate of cooperation in our universities, it will not result in more productive academic staff and it certainly will not introduce a system of choice. This bill will grant the minister unchecked powers to change the working conditions of university staff at the stroke of a pen not just for the first or the second round of funding but at any time in the future. (Time expired)

Mr SLIPPER (Fisher) (5.48 pm)—I was somewhat perplexed by the honourable member for Werriwa’s speech, just concluded, when he spoke about the Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005 in some way taking away what he referred to as the ‘independence’ of the universities. Everyone knows that the university sector in this country is not ‘independent’; it is heavily dependent on government funding. What seems to have escaped the member for Werriwa—who is about to escape from the chamber—is that the Australian government has a responsibility to make sure that taxpayers’ money is spent wisely. Therefore, what the government has decided to do is to utilise legislation to encourage a higher level of productivity and a higher level of accountability from the tertiary education sector.

There is an ever-growing sense in industry that Australian businesses must become even more efficient to compete successfully in an increasingly global market. Free trade agreements are becoming more and more common around the globe, and we are seeing ever-decreasing traditional barriers to free trade. Australia currently has agreements with a number of countries, and there are agreements throughout the world—in North America, Europe and Asia. The Department of Foreign Affairs and Trade’s publication *Trade 2005* reiterates that Australia now has an agreement with the United States of America and Thailand and is in the process of securing similar agreements with Malaysia and the United Arab Emirates. Discuss-
sions have even been held on a possible agreement with China.

In this climate of increasingly globalised trade, it is vital that all levels of society ensure that they remain highly competitive. The Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005 aims to ensure that our tertiary education facilities also maintain a competitive edge. I was surprised to hear that the Labor Party will oppose this legislation, which seeks to achieve positive outcomes and to give our tertiary education institutions world-class reputations. The bill aims to ensure that our universities become more productive, efficient, flexible and competitive. This will become possible through the introduction of new higher education workplace relations requirements.

The Australian government funds this sector to the tune of more than $5 billion, and it is duty bound to ensure that this substantial amount of money is used with maximum positive effect. It seems that some in the university sector simply want to get the money with no strings attached. Every level of our society today is accountable, and I do not believe that the government should apologise for insisting that the universities do not simply look upon the government as a cash cow, prepared to fund any sort of employment behaviour on the part of the universities. The university sector has to appreciate that it is accountable and that it is the recipient of substantial amounts of taxpayer funds. This government will ensure that the university sector is accountable for those funds in the same way as other levels of society are required to be.

The government will ensure that this money is used with the maximum possible effect. To ensure that they qualify for increased funding under the Commonwealth grants scheme—five per cent in 2006 and 7.5 per cent in later years as set out in section 33.15(1)(b) of the Higher Education Support Act 2003—higher education providers must have workplace relations arrangements in place that meet the higher education workplace relations requirements.

The time frames for the 2006 funding increases include the following. Higher education institutions that have a staff agreement that expires before 30 September 2005 must have in place by that date a certified agreement and workplace policies that meet the requirements of the higher education workplace relations requirements. Those institutions that have an agreement with an expiry date on or after 1 October this year must have an agreement in place that meets the requirements of the higher education workplace relations requirements, except where compliance with these would directly conflict with the requirements under their agreement as at 29 April this year.

These requirements will continue over subsequent years. Institutions must have certified agreements that meet the requirements in place by 31 August of the year prior to when the Commonwealth grants scheme increase comes into effect. Funding for private education institutions which have introduced individual agreements will be accessed on the content of their workplace policies and practices, with particular focus on those elements of the agreements that are common for all staff. These providers will be required to meet the requirements by 31 August each year to qualify for Commonwealth grants scheme increases each year.

I want to draw the attention of the House to elements of a media release jointly issued by the Minister for Education, Science and Training and the Minister for Employment and Workplace Relations on 29 April this year. The release says:

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The HEWRRs cover choice in agreement making, direct relationships with employees, workplace flexibility, workplace productivity and performance, and freedom of association.

It also says that the new HEWRRs will ‘assist universities in becoming more competitively nationally and internationally and enable them to attract, retain and reward the best people’. Dr Nelson said that it was time that universities provided their staff the same opportunities as those available to other workers, by offering them the choice of an Australian workplace agreement.

The provision of tertiary education has become a boom industry for Australia. It is not hard to see why. We provide a high standard of education, an environment that is tolerant of other cultures—a reflection of Australia’s multicultural heritage—and a safe location for overseas students to come and improve their educational qualifications. We have to bear this in mind in the light of the changing international situation and terrorist attacks around the world. Students from right around the globe can come to Australia with confidence that both their education needs as well as their quality of life during their study will be satisfactory.

With education becoming a targeted export for so many nations, it is important that the Australian product remains attractive on the international market. It is vital that the higher education sector does not wrongly convince itself that it is immune to those pressures that affect other industries. The car manufacturing industry is a case in point. With free trade agreements to become more prevalent around the world, all Australian industries must be prepared to maintain efficiencies and competitiveness.

In the second reading speech, some of the details of this legislation were clearly pointed out. The minister is of the view—and I fully agree with him—that the new requirements will provide universities with choice. The requirements, as the minister said, do not prescribe particular outcomes. He said:

Choice is about providing scope for individuals to negotiate pay and conditions that suit their particular needs and circumstances rather than being locked into the one-size-fits-all approach that has prevailed in the sector to date.

This legislation is seeking to change the culture of employment in tertiary education institutions. We have all heard the story of the university professor who was queried on how many subjects he taught. His response was that he taught one subject, but not every year. I know that that extreme example no longer applies in Australia, but it does highlight how, in the view of changing world circumstances and increasing competition between Australian universities and educational institutions in other parts of the world, it is important that we not only provide a world-class education but also have world-class employment opportunities. This bill is all about increasing workplace flexibility and choice. It will assist institutions to respond to changing requirements and challenges. That will develop a diverse work force, and that is obviously a very positive step forward.

It is no surprise that the tertiary education unions are not necessarily in favour of this legislation. As far as I am concerned, their attitude is completely irrelevant. What is important is that this government is determined to deliver a world-class outcome, world-class efficiency and freedom of choice. If some of the unions want to continue to live in the 1890s and have these outdated and old-fashioned ideas which seek to force people to be, in many cases, compulsory members of their association, that is their problem. It is not acceptable in the Australia of 2005. In conclusion, the government is of the belief that the requirements set out in the Higher Education Legislation Amendment (Work-
place Relations Requirements) Bill 2005 will help boost the international attractiveness of our education institutions. I am of the belief that this legislation is a very positive initiative. I am pleased to be able to commend it to the House of Representatives.

Mr BRENDAN O’CONNOR (Gorton) (6.00 pm)—I rise to oppose the Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005, because I do not think that at the heart of the bill the government’s intentions about improving educational services exist. Indeed, it seems to me that the reason this bill has been proposed by the government and brought into this place to be debated—and, it hopes, enacted—is to impose the government’s will, its view, on what parties to an industrial agreement may want to do at the workplace level. It is ironic that a government that says we have to remove third parties from workplace matters wants to legislate to impose a clause in enterprise agreements, even if it is not agreed to by the parties. What we have here is a government that, if it does not like what is happening, will intrude on parties who are genuinely negotiating outcomes at the workplace level.

If you look across the industries in this country, you will find that, where there is low union density and an absence of collective negotiations, the government will want to further deregulate those industries in the way in which they operate. They believe the employer already has the whip handle and they are not so concerned about the way in which matters proceed, because they believe the employers will get their way on almost everything. But where you see a presence of collective arrangements, where you see an industry that historically has collectively bargained at the workplace level, and where employees and their representatives have some bargaining power, you will see, on every occasion, a government that wants to impose its will upon the employer and the employees or those people representing the institutions, as is the case here with the higher education providers.

By introducing this bill, this government belies its own commitments and its own views as to the way in which industrial relations should occur in this country. If it does not get its own way, if it does not think that the employer will be able to reach an agreement that reflects its policies, it will legislate to insert a clause into an industrial instrument, whether or not the parties negotiating that instrument agree. In this instance, the clause that the government wishes to impose on employers and employees in this industry is:

The—

being the higher education provider—

... may enter into AWAs with its employees. Those AWAs may either operate to the exclusion of this certified agreement or prevail over the terms of this certified agreement to the extent of any inconsistency, as specified in each AWA.

Pursuant to the Workplace Relations Act 1996, employers, employees and their organisations, or just employers and employees, are able to determine which instrument they would like to govern their conditions of employment at the workplace level. Howard’s own bill, when enacted in 1996, provided choice. That is a mantra we hear often from the government—that they want to provide people with choice. There is choice. In the federal jurisdiction there is the capacity to negotiate a certified agreement between employers and employees, which is a section 170LK agreement, or to negotiate what is commonly called a union agreement—that is, an agreement between employer, employees and their unions; a section 170LJ agreement—and there is also the capacity for AWAs.
The Labor Party do not support the way in which the government encourages the proliferation of AWAs. I have to say with respect to AWAs that we believe the failure by this government over nine years to show a critical mass of employees picking up AWAs is evidence of a lack of interest in and a lack of support for that instrument. I believe that the reason the percentage of the work force of Australia picking up AWAs has been so low—about three or four per cent—is that, in the end, whether or not employees are in unions or wish to be in unions, most employees do not wish to be in individual contracts. There are some—and I accept that there are some—who would feel that they have a reasonable bargaining power and could manage to negotiate arrangements which would be reasonable, but the majority of employees would feel more comfortable in awards or certified agreements.

That has been illustrated by the fact that, despite all the efforts by the government to introduce bills such as this, effectively forcing employers to impose AWAs, forcing Commonwealth employees generally to take up AWAs or encouraging managers to place themselves in AWAs so as to bump up the statistics, very few employees genuinely go to their employer and say, ‘I want to be in an AWA.’ That is the reality. It is a very unpopular piece of public policy—one that has been there for nine years—and, as a result, it has not managed yet to reach four per cent of the entire work force, despite all the efforts by the government over four terms. As a result, the government say, ‘We think we’ve got a few ideas here. We can impose certain things upon parties. In this case, we can threaten universities and postsecondary institutions with regard to their funding if they do not include a certified clause that will force them to offer AWAs.’

That imposition by the Commonwealth to force parties to insert a clause that they do not wish to have in their agreements is contrary to the Workplace Relations Act 1996. It shows that, where there is a density of union membership in any given industry, or an interest to collectively bargain, a culture of bargaining collectively, the government wants to reregulate or over-regulate to impose its will on the parties. That is what is happening here, and the worst of it is this: because there is no cogent argument that the government can put forward as to why employees should be subject to this behaviour, it is threatening education money. It is an extraordinary thing.

Before standing up to talk on a bill that has ‘higher education legislation’ in the title, I had hoped that, after discussion and a debate, I might well have been able to accept some of the government’s views and reject others on matters to do with education. But this government is so ideologically blinded in its hatred of unions and its hatred of collective bargaining that it chooses to impose industrial relations dimensions on matters that should really be focusing upon education. This education bill pays lip-service to improving services for students in this country. It is about trying to break down the capacity for employees to negotiate; and, in doing so, the government contradicts its own legislation of nine years.

We heard today that an OECD report has effectively given the Howard government an F on education. If you want to use A, B, C, D, E and F, I am sure many would describe what is going on in our education institutions as a result of Commonwealth policies—

Mr Hockey—Your state mates run most of them.

Mr BRENDAN O’CONNOR—I am talking about postsecondary education, Minister. The OECD effectively gives the government an F because of the funding that has been cut from education over the last nine
years. Since 1995 the proportion of Commonwealth expenditure on education in universities and TAFEs has fallen by eight per cent. That is in stark contrast to the OECD average of a 38 per cent increase. Instead of working out ways to smash collectivism—the right of ordinary Australian citizens to bargain collectively at their workplace—and to prevent employees from having a genuine capacity to bargain, with some powers, with their employer, and instead of imposing upon employers clauses that they have not agreed to, the government should consider how much money it is ripping out of the education system, to the detriment of our education institutions.

We know we have a major skills shortage in this country. We know that workplaces have major problems in obtaining skilled employees. It is a complex issue and it certainly will take some time to solve—I am not suggesting it will be solved easily. There is a causal link between the extent to which a government is willing to support education institutions and the extent to which we have the skills required to become a productive economy.

Productivity has been falling in relative terms. In the 1980s we were going through fundamental changes and New Zealand was going through fundamental changes of its own. The way in which New Zealand chose to go was to effectively break down an industrial relations system that was similar to ours and to impose individual contracts on the majority of its workers. In comparison, the Hawke-Keating governments entered into arrangements with employers and unions and, quite rightly, devolved the central wage fixing system into a system that was moving sensibly to allow parties to negotiate at the workplace level, but to do so collectively.

I know it is not a complete comparison to take two countries and just compare the productivity that occurred in the 1980s and early 1990s. However, the federal government in Australia at that time was supporting the devolution of the central wage fixing system, allowing for and increasingly encouraging more decisions to be made by employers and employees at the workplace level, but doing so collectively; and that led to far greater productivity per annum, per capita, than did the experiment in New Zealand. The experiment in New Zealand not only failed to keep up with the productivity growth in Australia but also left some extraordinary social scars. There was no effort to protect vulnerable workers from being exploited.

My fear is that this government either has no interest in the adverse effects of its industrial relations policies or does not care what might happen to people if they are placed in a position where they have no capacity to bargain. Whilst academic staff and other staff in institutions would be relatively more likely to have the wherewithal and the wit to negotiate matters than some other workers who may not have the same protections and indeed the same resources, this exercise by the government is just one further step along a path containing many more steps to reduce the capacity of employees to be protected. I think the eighties and nineties showed that there was great merit in devolving the system while, at the same time, providing safety nets and protections.

If you were to compare us with New Zealand in that period, as I said, you would see clearly that there was less harm done to people as a result of quite fundamental structural change when compared with the drastic scorched earth policies that were embarked upon in New Zealand. If this is not just the government’s enmity towards unions and if this is really about trying to improve productivity, I ask it to look at the bill dispassion-
ately and ask itself whether this is more about whacking education unions over the head or about looking to improve productivity in our education institutions.

I have not seen any evidence to date that there is a need to impose clauses upon the higher education providers in this country in the way in which this bill does. I am left with one conclusion: the government, in the end, is seeking to diminish the capacity for this sector to negotiate, in a collaborative way, changes in the workplace that are required for a vibrant industry—as we need our education industry to be. There is no evidence that that is the focus and the interest of the government.

I understand that there are always assertions made against the Labor Party because of its direct link and association with unions—it is upfront; it is transparent; no-one is denying those associations and nor would I ever deny those links or ever regret them. In this case, many of these employee organisations are not affiliated to the ALP. First and foremost, their interests will always be in representing their members, above and beyond caring about the Liberal Party or the Labor Party.

It is becoming apparent that the government are blinded by their obsession with IR. As we know, when the Prime Minister outlined in May some of the ideas he has about fundamentally changing the landscape by changing the system that we have had for 100 years to an extreme antiworker system, we did not see any balance between ensuring productivity and protecting the work force, their entitlements and their rights. We saw wholesale removal of matters that have been agreed between the parties, in some cases for many a year.

It is becoming increasingly apparent to all Australians that this government have become rather extreme in the way in which they apply their IR policies. Not only are they becoming extreme they are also clearly out of touch with concerns of workers at the workplace level. I know that the Minister for Human Services, who is at the table, would not meet too many workers unless they are serving him a drink or waiting on him in a cafe or restaurant. The only other time the minister might see a few workers is when he dons some safety glasses and walks around for a photo shoot at a factory; that would be about it.

The reality is that most workers now in this country are very concerned about the government’s intentions. I have thought that Howard and this team have been relatively pragmatic, but on this occasion they cannot be, because they are blinded by an ideology that is extreme and has no regard for working people in this country. In the end, because of the fact that they have a majority in the Senate, they are not in a position to deny their more extreme friends.

The HR Nicholls Society used to be laughed at in all quarters in the early nineties for their extreme policies. So far they are winning, because those extreme policies of HR Nicholls and other organisations have now become government policy. I am pretty sure of this: those extremes will actually be the end of this government. (Time expired)

Mr JOHNSON (Ryan) (6.20 pm)—I am pleased to speak on the Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005 and support it very warmly and strongly. After listening to the member for Gorton speak, I am more certain in my own mind—and I know my colleagues would support me in this—that the federal Labor opposition are unfit and continue to be unfit for office. Question time today again reflected their inability to come up with ideas and real questions that would challenge this government’s stewardship of
the nation. Clearly, the presentations that have been given previously by members on
the other side quite strongly reflect that the opposition have never been more unfit for
office than they are today.

I want to very quickly touch on a point
made by the member for Gorton. He talked
about this government being out of touch
with the Australian community. I might just
remind him that fewer than one in five peo-
ple are members of unions; in fact, 17 per
cent of the Australian population are mem-
ers of unions. So I do not know quite what
he is going on about with this government
not being aware of the trends in this country.

The purpose of this bill is to amend the
Higher Education Support Act 2003 to en-
courage our higher education providers to
adopt more flexible and responsive work-
place relations practices so that they can
maintain their competitiveness and reputa-
tion in the international education market.
This will be achieved by including, within
the Commonwealth Grant Scheme, guide-
lines that place a strict requirement for
higher education providers to meet national
governance protocols and the higher educa-
tion workplace relations requirements.

The incentives of an increase in the higher
education provider’s basic assistance funding
grant under the Commonwealth Grant
Scheme will be allocated if the providers
comply with these important requirements.
So the universities can see that there is in
fact something very significant for them.
They are going to receive a very important
financial benefit for their institutions should
they comply with the requirements. These
requirements will provide higher education
providers and their staff with clear choice
and the scope to negotiate pay and conditions
to suit individual needs and circumstances.

Naturally, the requirements will need to be
evidenced in the workplace agreement po-
licies and practices of the particular higher
education provider. In 2006, this is going to
mean an increase of five per cent; for later
years it will mean an increase of some 7.5
per cent. It goes without saying that the Min-
ister for Education, Science and Training will
need to be satisfied that the provider has met
these requirements as of the date specified in
the guidelines.

I note that in the press there has been re-
cent commentary that there has been some
argy-bargy between some of the stakeholders
about whether the guidelines would in fact
be met and whether the government would
be short-changed and the university short-
changed. That will not happen, I hope. I have
full confidence in the minister for education
and very warmly commend him for his stew-
ardship of the portfolio. He is doing a tre-
 mendous job. Education in this country owes
this government, and in particular the educa-
tion minister, a big round of applause for
management and leadership in this field.

The purpose of the Howard government’s
general workplace reform program is to
bring efficiency, flexibility and responsiv-
eness to workplace practices across all indus-
tries in this country. What is wrong with that
proposition? It is very elementary, very sim-
ple—standardisation, efficiency, flexibility
and responsiveness. For the life of me, I do
not know why federal Labor opposes such
important initiatives and policies. One would
think that something as vital as reforming
and streamlining the workplace of the higher
education sector should have bipartisan sup-
port, but I can inform the people of my elec-
torate of Ryan that regrettably the federal
Labor Party just cannot bring itself to sup-
port something which the rest of the country
says is quite straightforward and in line with
the greater trend for workplaces in this coun-
try. From the shop office to the office floor,
things are happening in our workplace rela-
tions that are increasing productivity. It is
high time that the federal Labor Party came on board and supported these kinds of initiatives.

I want to refer to an article by Michael Chaney in the *Australian* on 24 May this year. Michael Chaney is a very distinguished, prominent and successful Australian business executive. He made some very pertinent remarks. They were very instructive indeed—instructive for workplaces in this country generally and for all Australians and also something which I think would enlighten the Labor Party should they care to read them. If they did, I think they would be far wiser in terms of representing to the people policies that are very relevant to this country. It is somewhat embarrassing, because it is quite clear that Michael Chaney is hitting the nail on the head and making some very relevant comments that the opposition should take note of. I want to quote Michael Chaney:

Reforms started by the Hawke-Keating Labor government have moved Australian workplaces away from the highly regulated, centralised structures to focus on enterprise bargaining, and have allowed business and employees to better align their interests. These changes have enabled business to reward employees for performance and have strengthened accountability on all sides. This has positively changed workplace cultures—that is, broken down the them-and-us approach—in ways not anticipated.

This them-and-us mindset seems to still permeate the federal Labor Party. I wish they would get away from that adversarial kind of mindset. Let me continue to quote Michael Chaney, because what he says is very relevant and very instructive:

We live in an intensely competitive and increasingly open global economy. The rest of the world is not standing still and, unless we innovate and find new ways to continually increase our productivity and workforce participation, we will go backwards as a nation.

We will go backwards as a nation. I am pleased to see that there is a shadow minister at the table—the member for Watson. I think he likes to consider himself a thinking person. I encourage him to read this article. Indeed, I will be very happy to fax a copy to his office. He would learn a lot by reading from the article written by Michael Chaney in the *Australian* on 24 May 2005. Perhaps deep in his own heart he believes that the words of Michael Chaney have great merit. I am sure he does.

In terms of universities, the words of Michael Chaney have absolute relevance. They have an absolute link to the productivity of workplaces in all our institutions of higher learning. It is very important that the government presses forward with its general reform initiatives. The policy paper Our Universities: Backing Australia’s Future, released by the government after the higher education review of 2002, establishes important foundations for the tertiary sector to ensure viability and value for Australia’s future. For the next decade, the government will be investing some $11 billion in our university sector to help secure it for the future. That is a lot of money in anyone’s book. It is a very important amount of money that is being spent on such universities as the University of Queensland right in the heart of my own Ryan electorate.

Underlying these reforms are four very important principles: sustainability, quality, equity and diversity. Without a strong foundation of a sustainable education sector, the future of our higher education sector will easily be challenged and jeopardised. A quality system will help produce the best graduates, most able to contribute to our community and our nation. We also need an equitable system with an opportunity for higher education that can be grasped by the best and the brightest Australians no matter what their background, their financial position or their
family’s station in life. We need diversity as well so that our universities can be responsive to the changing global conditions.

One thing that everybody in this country—and certainly every member of this parliament—should be fully aware of is that we live in a very changing world and we must adjust to the changes. Otherwise, quite clearly, we are going to be left behind our competitors. As Michael Chaney says, we must innovate, we must modernise and we must be aware of what is happening in the global economy. It is very important that we move forward and introduce reforms, policies and ideas. Otherwise we will be left behind, with the likes of Singapore, Malaysia and Taiwan moving forward very strongly.

All those nations are fully aware that the biggest challenge to leadership is not only to be aware of the changing world but also to be prepared to take action that better positions their industries and their economies. This is exactly what the Howard government is doing. This is exactly what the minister is doing with this bill. That is why this government has had the full confidence of the Australian people over successive elections.

It has only been a year since the people of Australia re-elected the Howard government. I remind those opposite that the shareholders of this country, the people of Australia, voted very strongly for the Howard government only 12 months ago. So we do not want to hear any of this lecturing from the opposition about what this government is doing and how out of touch we are. Only 12 months ago there was a poll that returned this government very strongly to office, so let us just get away from this mindset of telling the government how to be in touch with the people. We know very well how important that is on this side of the chamber.

It is in this context that the fundamental aim of the government’s reforms is to allow our universities to better capitalise on their strengths and ensure value in outcomes for students. The best way to achieve this is to allow the partial deregulation of the higher education system. This was certainly taken up wholeheartedly by universities when they were given the opportunity of flexible pricing for student contributions. I know that the University of Queensland, in the Ryan electorate, certainly took full advantage of the new fee structure to better position the university.

Part of deregulation is also allowing for price flexibility when it comes to the very important topic of remuneration. High-performing academics, researchers and other staff should be rewarded for their efforts. Conversely, lower performing academics, researchers and those in academic institutions that are quite clearly disinterested and disengaged from the aspirations of their students should be treated according to that behaviour. It is quite as straightforward as that, I would submit.

What underpins this bill is a belief and a philosophy shared very strongly by the government and the members of the coalition that our society should operate on the basis of rewarding people for their hard work and rewarding people who take initiative, who have energy and who demonstrate commitment and professionalism. That is what is meant by and embraced by incentive and reward.

Conversely, the opposition seems to stand for some kind of economic socialism where everybody is the same and every university in the country is treated the same. That is absolute nonsense and no-one on this side of the chamber would say that every academic in this country is of the same quality. There are some who are better than others. We want to reward those who are better than others through individual agreements with their
employers. That is what it is all about. Until the opposition can get hold of that idea, until it can get that idea into its mindset, it is going to be forever banished on the other side of this chamber.

The Minister for Workforce Participation, who is at the table now, would be interested to know—and I will repeat this for the shadow minister’s benefit, because he may not have heard me last time—that fewer than one in five Australians is a member of a union. Seventeen per cent of the Australian workforce are members of unions in this country. What does that say about the Labor opposition’s capacity to keep in touch with what is happening in the workplaces the length and breadth of this country?

The Labor Party seem to me at least, and certainly to the people in my electorate of Ryan, to be subscribing to some sort of lowest common denominator when they approach this bill. That is not consistent with the values and the aspirations of the Australian people. Having a blanket policy towards a topic such as remuneration, I would submit, breeds complacency, poor performance and inequity. We are punishing those who work hard. We are punishing those in universities and institutions of higher learning who are dedicated, who are enthusiastic and who put in more—who do not just look at the clock and knock off as soon as they can. We need to reward those who are doing that extra little bit for the students, whom they should be teaching with all the skill that they have.

These reforms are simply about offering the higher education sector choice. They are about informing and advising people in the university sector that they have options; they do not have to blindly go down the route that the Labor Party seems to call them to go down. I encourage all of them to be informed, not to just blindly listen to what the shadow minister and the opposition would throw down their necks.

This choice is about individual scope to negotiate pay and conditions to suit their personal needs. This choice will also give universities and other higher education providers the scope to reward individuals and to develop and enhance individuals and give them more opportunities for promotion to serve their students and their respective organisations. The idea of choice in negotiating pay and conditions is not new. Australian workplace agreements have been around for many years, successfully providing employees and employers with greater flexibility to arrange conditions that include incentives and bonuses.

I am pleased to speak on this bill and I am very pleased to support it. I want to comment very briefly about the University of Queensland, which as I mentioned is in my electorate of Ryan. It has come to my attention. I am very pleased to speak in the chamber and commend the University of Queensland Business School for its recent ranking in the top tier of business schools at universities in this country. I want to pay tribute to the professors and academics in that business school, who I think deserve the full credit and applause of all their students and of the Australian population at large.

I am sure that those academics are putting in that extra mile—they are doing that extra piece of research or putting in that extra commitment to their students, and that is why the University of Queensland Business School has been ranked alongside the Melbourne Business School, the Australian Graduate School of Management and Monash University as industry leaders in the university sector. That is very pleasing to me as a graduate of the University of Queensland. I am very proud to be someone who has completed two degrees, an arts degree
and a law degree, at the University of Queensland—as both my brother and my sister completed a medicine and a science degree. I am sure that all the students who graduated from the University of Queensland are very proud of their efforts. At the same time we should acknowledge that university training, university education and a university degree are not the be all and end all in this country in terms of future employment prospects and career opportunities.

I want to conclude by commenting again on the opposition’s failure to support this bill. It shows just how much the opposition is stuck with a mid-20th century mind-set and how out of touch it is with modern Australia. As I have said—I am happy to say it again and again; in fact, when I return to my electorate after this fortnight’s sitting, I might even write to remind people in my electorate of this—17 per cent of the Australian workforce are members of unions. Fewer than one in five Australians take it upon themselves to join unions. No doubt many union members would like to depart from their unions. In fact, they would probably like to cancel their membership. However, no doubt some Big Brother is watching over them saying, ‘You cannot cancel your union membership or you might lose your job.’ However, they can rest assured that every member of the Howard government, every member on this side of the chamber, is very much concerned about their interests and their future. That is why this government is bringing to the parliament these initiatives and policies and this legislative framework—to ask for the parliament’s support so that we can change the legislation that currently exists and introduce new legislation that will improve workplace relations and improve this country’s productivity.

While the rest of the country marches forward, determined to improve and reform itself, federal Labor is mired in old practices and old behaviour. As the Prime Minister is apt to remind members of his government, it is quite remarkable that the opposition is suffering from reform fatigue; it is absolutely amazing. You would think an opposition party would be very focused on coming up with new ideas and policies to connect with the people of the country who have given them the flick, yet this one seems to be mired in reform fatigue and reform paralysis.

I am wholly committed to this bill and its purpose. One clear and obvious reason for my commitment is that there is an institution of higher learning in my electorate; the University of Queensland is in the federal electorate of Ryan. The University of Queensland is Queensland’s premier institution of higher learning. It clearly occupies an important place in the life and activities of my Ryan electorate. But, more than that, its reputation for academic success has a major impact on the capacity and extent of the economy and on the social growth of Queensland.

It is quite clear that the Labor Party now is simply not fit for government, because it shows no signs of appreciating the potential for universities to improve their productivity and the potential of their staff—their lecturers and researchers—to compete with world’s best practice. In this country, it is not good enough for us to be of only world-class standing. We must be at the head of those who are world-class. We must compete with the very best. Our universities must compete with the likes of Harvard, Oxford and Cambridge universities. Greater productivity in our universities, with staff on good packages that are reflective of their commitment to their students, will bring about those outcomes. I commend the bill very warmly to the parliament and I call on the opposition to join with the government, in an act of good spirit and in the interests of the future generations of this country, in supporting this bill. *(Time expired)*
Mr ANDREN (Calare) (6.40 pm)—The contribution by the previous speaker, the member for Ryan, was basically, as I read it, ‘Get out of the way and let us govern’. We have seen what that means in recent days with the outrageous truncation of the Telstra debate; he calls that democracy. From what he has said, I presume that he believes in one-party government. I think the electorate’s taste of that over the last few days will sour over the next couple of years, at least in relation to its Senate vote—and its rural vote too, I would suggest.

I want to make a brief contribution to this debate on the Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005. It offers additional funding to our universities and other higher education institutions under the Commonwealth Grants Scheme that is conditional on the adoption of the government’s higher education workplace requirements. Universities that comply with these requirements will receive increases in their basic grant of CGS funding of 2.5 per cent in 2005, five per cent in 2006 and 7½ per cent for 2007 and onwards. These requirements are, as stated by the Minister for Education, Science and Training, in line with the government’s broader workplace reform agenda. This agenda is far from clear, with the bills for the government’s final push on workplace relations yet to be introduced into this place. I understand that the government has imposed a 30 November 2005 compliance deadline for our universities. However, debate on the requirements might have been better served if the detail of the government’s broader workplace agenda was public knowledge.

The mainstay of the higher education workplace requirements is the offering of Australian workplace agreements to university employees. I am not encouraged by speculation that the no disadvantage test for Australian workplace agreements is to be removed under the impending workplace changes. In his second reading speech on this bill, Minister Nelson stated:

As with collective agreements, AWAs are subject to a no disadvantage test.

Yet, as the minister knows, this may not be the case—and it is likely that it will not be the case in the future. If the minister’s statement was meant to provide some sort of guarantee of basic levels of pay and conditions to encourage the take-up of AWAs on our campuses then I would appreciate, in his summing up on this second reading debate or in the detail stage, some clarification from him on the matter of the no disadvantage test. Certainly, there is nothing in this bill or the Higher Education Support Act that maintains the no disadvantage test for AWAs in higher education institutions. The government insists that it is not forcing the issue of AWAs and that take-up is voluntary, yet in this higher education bill the government is putting pressure on universities by tying additional funding to the offering of AWAs. That is putting pressure on the employer—and that pressure will undoubtedly pass on to bear down on the employee.

The vice-chancellor of my own university, CSU, is totally satisfied with current arrangements and his ability to offer common-law contracts. Why, indeed, is there a need for the Employment Advocate? Current arrangements work fine. A properly negotiated AWA or common-law contract may be fine for highly educated academic employees, but universities are major employers of a wide range of skilled and unskilled employees—from cleaners to ground staff, caterers and technicians. Those in unskilled work are not as well equipped or resourced as those academic employees to defend their rights, conditions and remuneration on a one-to-one basis with any employer, let alone with organisations as large as Australia’s universities, which are constrained by the subtle if
not heavy threat of more of the AWA regime being introduced on the basis of funding to follow.

Collective negotiation is how the workers who are not skilled enough to sell their wares ensure a fair deal for their labour. In making this process efficient and practical, representation of these employees by a third party—a peak body, a committee or a union—has been part and parcel of the agreement process. The government has recognised that strength in numbers is a legitimate approach to negotiation. Its Trade Practices Legislation Amendment Bill (No. 1) 2005 provides small business with the right to collectively bargain in their negotiations with suppliers or buyers when the business relationship is imbalanced due to the market power of the companies they do business with. Examples include smash repairers in their negotiations with the huge insurance companies—notwithstanding the problems the NRMA smash repair providers are suffering at the moment—and fruit and vegie growers in their dealings with the wholesale fresh produce markets.

In his speech on the Trade Practices Legislation Amendment Bill (No. 1), the Parliamentary Secretary to the Treasurer stated:

...the ACCC will have particular regard to the government’s intention that the collective bargaining provisions not be used to pursue matters affecting employment relationships.

That is an outright double standard. Why are collective bargaining and negotiated agreements encouraged in one situation where an economic power imbalance exists and yet discouraged in another? Surely the same principles apply.

The higher education workplace requirements proposed in the bill contain four additional measures: direct relationships with employees, workplace flexibility, productivity and performance and freedom of association. From the government’s perspective these measures are relatively benign, but I have concerns these requirements may also undermine employees’ ability to secure a fair deal for themselves. The direct relationship measures determine that a university must provide for direct consultation with their employees and the involvement of third parties representing an employee’s interest must only occur at the request of the affected employee. Once such a request is made, the negotiation process cannot be restricted to third-party representation only.

This measure again may appear benign, but certainly employees who do not have a high level of awareness of their rights may find themselves agreeing to substandard conditions without the benefit of assistance from a representative body or organisation. I can think of several instances of technical support staff in the media department of Charles Sturt University who have experienced this because of financial constraints and the need for the university to prune back its operational processes. Indeed, this might happen if a university has a need to, if you like, top up its contractual arrangements with an academic staff member. This might happen for any reason.

I notice in the higher education section of today’s Australian a story about the increase in the number of foreign students here. We have topped the OECD for foreign students. The fact remains that, if we continue down the path we are on, we may find that situation reversed in the years ahead, particularly with things like the voluntary student unionism which the government is now foisting on the campuses, which will lead to voluntary student association cutbacks. I do not believe that we are going in any way to be able to provide the climate for a proper attractive academic option for those overseas students. We are now seeing Singapore and other South-East Asian countries building up the capacity of their universities to provide train-
ing, conditions and university standards far and away above the standards that we are going to be able to offer here.

I know the minister talks about world’s best practice and the best universities in the world. How do you measure the standard? If we force people who are working on the support side of universities into a process of taking whatever is on offer—and that will certainly be what is offered—then surely we will start to undermine the basis of the whole university workplace structure.

Workplace flexibility is of great concern, particularly in relation to the minister’s statement that this includes not placing limitations on the forms or mix of employment arrangements on campus. I believe those unable to strike a deal will be the ones who, as elsewhere in the workplace, are forced down in terms of their conditions and their pay.

Students are already seriously disadvantaged by fly-in, fly-out and part-time academic staff and by their own need to work off campus. I see an inevitable progression towards casual employment on campus for academic staff as well—except for the very top echelon—without job security or benefits such as holiday and sick leave. I have already had students coming to me and talking about the fact that they are very disappointed that their contact with lecturers is relegated to the most minimal of opportunities. I am sure other members have had similar conversations. These students feel that the quality of their feedback and preparation is compromised, and I can only see that increasing when we have a situation where workplace agreements are on offer that increasingly require the universities to go for the cheapest options, particularly when dealing with support staff and those at the lower academic levels—lecturers and, indeed, tutors.

I have few problems with measuring organisational productivity and performance, save that it may instil a managerial production line approach to higher education rather than encourage creative thinking and innovation. Universities are supposed to push the limits of human knowledge, and I wonder if this can be achieved if compliance with departmental guidelines and benchmarks is given priority over new ideas and often very long term research. The freedom of association requirement determines that a university must not encourage or discourage union membership and must not use CGS funds to pay union salaries or fund union facilities or activities. The only comment I will make about this area of the legislation is that, if the government’s VSU bill passes in this and the other place, I wonder if our universities may be presented with a considerable dilemma when trying to provide essential services to students.

I have received numerous letters with regard to this bill from employees of Charles Sturt University expressing their opposition to the requirements in the national governance protocols and their belief that tying these conditions to additional assistance is corolling universities into compliance. One letter says:

If passed by the parliament, these—requirements—would represent the single greatest attack yet on the autonomy of our universities. Independent self-government is a defining characteristic of a university, and a formal part of the accreditation process.

By seeking to have a federal minister directly dictate the form of agreements which should be offered to staff, and to attempt to micro-manage conditions of employment, the government demeanes universities as autonomous public institutions.

I believe this is a key point that is missing from the minister’s assertion that the higher
education workplace requirements are essential if we are to improve the calibre of our universities and create a world-class higher education sector in this country.

The letter from the staff member went on:

The government’s focus on individual agreements (AWAs) and on such matters as abolishing the limits on casualisation of the workforce, ignore or in fact exacerbate the real problems which are limiting the quality and performance of our universities. For the last decade, the proposition of public money invested in our universities has fallen to well under the 50% mark. The failure of the government to index government grants to reflect real costs has resulted in excessive workloads, increasing working hours, a highly casualised workforce and spiralling staff-to-student ratios.

Is this heading to world’s best practice or to the world-class higher education sector that the minister says he is aiming at? And, as I said, who measures what world class is? What are the standards—the number of business graduates or the number of philosophers? I do not know. Where is this measurement?

Ms Hall interjecting—

Mr ANDREN—There are not too many philosophers around. There are plenty of graduates of law schools and business schools, I note—especially in this place. In the 2003 debate on the Higher Education Support Bill, I said:

Under the Keating Labor government, the salary component of government funding was unhinged in 1995 from real price increases in the sector and linked with safety net wage movements instead. This began the road to the increase in staff to student ratios—

I should have said student to staff ratios—

the creeping casualisation of the university workforce and the necessary commercialisation of universities to snare the elusive dollar.

Under this government, public funding has plummeted from 60 per cent to 39 per cent since 1996. Only three OECD countries lag behind us in public spending on higher education. Public funding for higher education in this country accounts for just 0.6 per cent of GDP—that is down from 0.9 per cent in 1996—and the budget papers show it will fall to 0.5 per cent in 2004-05.

If the minister were indeed serious about improving ‘the capacity of Australian institutions to be internationally competitive’—whatever that means—the funding increases on offer in this bill would not be described as additional funding but as a retrospective top-up of forgone investment. They certainly should not be conditional on acceptance of the government’s workplace agenda. As it stands, I cannot accept this bill.

Ms HALL (Shortland) (6.56 pm)—The Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005 is classic Howard government legislation, driven by the philosophical zealots on the other side of this parliament who are committed to their antunion, anti-worker agenda. This is extreme legislation that highlights the Howard government’s ideological preoccupation with controlling and converting every institution to fit its narrow vision of the world. This legislation will hold universities to ransom: either the universities meet the government’s extreme industrial relations requirements or they miss out on desperately needed funds.

Universities have suffered under the Howard government. You only need to talk to people from any one of our great universities to understand just how much they have suffered and just how much this government has eroded their funding base and affected their ability to deliver quality education to the people of Australia. This legislation is an attack on the autonomy of the universities, and it is also an attempt to micromanage the day-to-day running of the universities.

We know from various pieces of legislation that have passed through this House just
how the government likes to enforce its agenda on every institution. It uses funding to manipulate and to change institutions and vital services that are provided within the community. This government has absolutely no respect whatsoever for any organisation and, unfortunately, universities have really suffered. Funding for universities should be about improving education, learning and research. It should be about providing the best learning environment for students. It should be about preparing our students for the workforce. It should be about ensuring that we have a society based on knowledge—knowledge that will, therefore, improve our communities. It should be about ensuring that our great universities conduct the research that we need to move forward, and it should be about making Australia a competitive nation as it goes through this century.

At the dawn of a new century we should be looking to the future and examining the skills that we need as a nation. We should be looking at our universities to deliver those skills and knowledge—to be the institutions for the development of thought for looking to the future. Unfortunately, under the Howard government, this has changed. Universities are not about seeking knowledge. This bill is not about preparing us for the future; it is about running the government's narrow agenda. This legislation is about implementing and including industrial relations changes and making them more important than what the universities are about. Universities are about learning and research. Instead, this is where the Howard government is taking us.

This bill enacts the industrial relations policies of the government in relation to universities. It imposes some requirements consistent with the government’s industrial relations approach to the workforce generally. But the bill goes, in a number of undesirable ways, beyond those requirements. Bearing in mind what I just said about the importance of universities and about how they are the institutions where we develop knowledge and thought, looking to the future, you will see how the actions of this government have actually impacted on that.

In 2003 the government attempted to pass legislation that would impose a number of unreasonable industrial relations conditions on the capacity of universities to access additional funding. The measures in this bill were a component of the package of legislative changes to higher education that the government was then attempting to win support for in the Senate. But in order to secure majority support for the bulk of its package, the government agreed to drop these industrial relations measures from its higher education legislation. Following the last election and the changes to the composition of the Senate, the government has once again introduced the industrial relations proposals that were not supported in the Senate in 2003.

That says to me that this government is going to arrogantly force its extreme agenda on the people of Australia, it is going to override any opposition and it is going to use its numbers in the Senate to ram through each and every piece of legislation that it chooses to. The government is not going to allow proper consultation and debate on legislation. All it will be about is ensuring that it gets legislation through and it will ride roughshod over anyone that disagrees with it. That is what the universities are facing here—a government that will ride roughshod over them if they do not agree with its agenda.

The government is seeking to force universities to introduce these draconian industrial relations conditions to secure funding. By putting these extreme industrial relations requirements in front of quality education and research, the government is, as I have previously stated, eroding the quality of our
universities and the quality of the skills that we have as a nation—we are already very aware of the shortage of skills—and eroding Australia’s position in relation to the rest of the world.

The government has been responsible for cutting $5 billion from Australian universities since coming to power, and we have seen many changes in the university sector. We have seen the government refusing to index university grants, and there has been a greater reliance on student fees. In the region that I represent, which is the Hunter and the Central Coast, the government has treated Newcastle university appallingly. The government has refused to grant the university regional status. It is important to put on the record here in the House tonight that the Central Coast has one of the lowest, if not the lowest, number of students in Australia going on to tertiary education. Instead of making it easier, instead of increasing access to university education, this government is trying to intervene, in the most draconian manner, in the universities’ agendas and their ability to deliver education.

We have seen how the student to staff ratios have increased and we have seen increased casualisation of the work force. When I am talking about the quality of education, it is interesting to reflect on the question that the shadow minister asked the minister today in question time when the shadow minister referred to the OECD’s report Education at a Glance 2005. The shadow minister brought to the attention of the House that Australia is the only country in the OECD to actually reduce spending on university and vocational education as a proportion of GDP since 1995. We put that in the context of this piece of legislation and it makes it even more horrific. Here is a government seeking to influence the agenda of universities and link funding to adopting its industrial relations requirements. I have always believed that the funding of universities and education is about ensuring that we have fully qualified, skilled workers and also a population and work force that is knowledgeable and has a good understanding. The shadow minister went on to point out that public funding for tertiary education in comparable OECD countries had risen by 38 per cent since 1995 while public investment in Australia had fallen by eight per cent in that period. This government is looking to do over the universities if they do not sign up to the government’s industrial relations requirements.

From my perspective, it is definitely not good enough. Who suffers? Australian students and Australia as a nation. That is what this government always forget. They forget that it is not them against the universities and it is not them against the unions. This is really impacting on the way our nation operates. It is impacting on our skills base and it is impacting on our economy. These legislative changes move the focus from teaching and learning to implementing the government’s industrial relations changes. The legislation is about forcing Commonwealth government workplace relations on higher education providers. The government are pursuing their anti-union agenda, which pervades all of the Howard government’s legislative agenda. In this instance it is impacting on the day-to-day operation of the universities and the quality of teaching and research.

I would like to demonstrate how the Howard government is trying to hold universities to ransom by bludgeoning them into accepting these extreme, reactionary, industrial relations requirements to secure funding. This is a government that will stop at nothing to ensure that its agenda is adopted. It is a government that does not look to what benefits the country. It is a government that can only see one thing—that is, its agenda: its absolute hatred of unions—and it lets that
pervade its thinking, which therefore has an impact on the outcomes for this country.

This legislation has five conditions attached to it for securing funding by universities. The first condition is choice of agreement. It provides that employees have genuine choice and flexibility in agreement making by being offered AWAs. Employees on AWAs earn two per cent less and work six per cent more hours than those on registered collective agreements. Women in particular employed on individual contracts earn 11 per cent less an hour compared with men employed on collective agreements. Women receive about 90 per cent of the hourly rate of men employed on collective agreements. The percentage reduces further under AWAs, where women earn only 80 per cent of the hourly pay rate of men. Casual and part-time employees on AWAs earn 15 per cent less and 25 per cent less respectively relative to their earnings under the terms of collective agreements. AWAs are bad news for employees, especially women, and women represent over 50 per cent of the staff at universities. AWAs are subject to a no-disadvantage test, and I must say that that has not worked too well.

This government is not about better conditions for workers. It is not about better choice. It is really about poorer conditions and ensuring that workers get the lowest wages and the poorest conditions that they possibly can.

The second condition is the direct relationship between employees and the higher education provider. Workplace agreements, policies and practices must provide for direct consultation with employees on workplace relations and human resource matters. It is a direct relationship between the employer and the employee. Third-party involvement is only at the request of the affected employee. Once again, this is the government’s anti-union agenda. Underlying all this is the government’s hatred of unions and the fact that they do not want to see unions in any workplace in Australia.

The third condition is workplace flexibility. The higher education workplace agreements, policies and practices are to facilitate and promote fair and flexible arrangements. That is what this government says, but you always look at what underlies these statements. The higher education provider must have working arrangements and conditions of employment which are tailored to the circumstances of the higher education provider. I think you get the best outcome in any workplace where you take into account all parties. Over the years, women have been granted maternity leave. In the higher education sector there is 26 weeks of paid maternity leave. If you compare that to the community norm, you will find that maternity leave is unpaid. We all know that ‘workplace flexibility’ is code for casualisation and poorer conditions.

There are two other conditions: productivity and performance, and freedom of association. Productivity and performance are really an agenda for easy termination. Freedom of association is the fifth condition outlined. The legislation prohibits using Commonwealth Grant Scheme funds to pay union staff salaries or fund union facilities such as offices, but—and this is where the double standards come in—it will support the facilities of non-union bargaining. So, if you are a union, there is no assistance; if you are not a union, no worries—that can be funded through the Commonwealth Grant Scheme. These are double standards, and that really shows the government’s true agenda.

On this side of the House, we have a different agenda. The Labor Party position on industrial relations has six key features. We believe in a strong safety net of minimum
award wages and conditions, a strong independent umpire to assure fair wages and conditions and to settle disputes, the rights of employees to bargain collectively for decent wages and conditions, the rights of workers to reject individual contracts which cut pay and conditions and undermine collective bargaining and union representation, proper rights for Australian workers who are unfairly dismissed, and the right to join and be represented by a union.

We do not believe that funding arrangements should be used to manipulate institutions that are as important to the Australian community as our universities are. The government stands condemned for introducing this legislation into this parliament. It stands condemned for trying to link higher education, learning and research to its industrial relations agenda. This legislation should be rejected by all members of this parliament.

Mr HATTON (Blaxland) (7.15 pm)—The purpose of the Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005 is nicely summarised as follows by Kim Jackson from the Parliamentary Library’s social policy section:

To enforce the Commonwealth government’s workplace relations requirements for higher education providers.

You could put it no more neatly than that—to enforce those workplace requirements. This bill has nothing to do with higher education or quality of output. It has nothing to do with the concerns of students. It has nothing to do with how better to administer universities in Australia, unless the assumption upon which you predicate everything else in higher education is based on a workplace requirements factor that is a key part of the government’s industrial relations agenda. Members of the government accept that; Labor rejects it in toto.

The original workplace relations legislation, put together into one grand bill by the then member for Flinders, Mr Reith, sought to cast a net of requirements across the whole of Australian society. When it could not get that through, the government broke the legislation into 12 different bills. The background to this is that in 2003 the government tried to force the legislation through the Senate. It could not do it, so it did a bit of a compromise and got part of it through. The government now has a legislative majority, or at least a putative legislative majority, in the Senate. From day to day we do not know how that will work out but what we do know is that, although the government expected to have Family First Senator Fielding in its pockets and to be able to rely upon his vote, he has demonstrated in the short time he has been here as a senator—and I commend him for this—that he is fundamentally concerned about the impact of government policies on Australian families.

Senator Fielding asked for family impact statements on every major piece of legislation, and the Liberal Party gave him that guarantee prior to the last election. However, as he has only come into the Senate just now, I have to tell him that I have been in the joint since 1996 and I know about the legislative guarantees that were given then. The general patina that the then opposition, now the government, put on show was: ‘We’ll do everything just as Labor’s done it. We’re relaxed and comfortable; nothing is really going to change. We’ll just change the bloke who is Prime Minister and change the people on the front benches. We’ll make these series of promises to you but we really will not disturb anything else, so don’t worry yourselves about that.’ The reality after the 1996 election was that the Prime Minister had made ‘core’ and ‘non-core’ promises. There were things that the government would stick by and there were things they would not stick
by. That practice is now time honoured, election after election.

What did we find after the last election, in October 2004, when the Family First senator arrived? He was promised family impact statements on major pieces of legislation, but this is not in evidence in respect of the Telstra bill. I tell you what: that senator would be able to see here that, in respect of this legislation, there will not be one forthcoming either.

This Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005 is directed at the remaking of higher education in Australia, not from an educational point of view but from social engineering and industrial relations perspectives. There is conditionality on the funding provided by the government. This bill says: ‘If you want to get the extra money and the increases that are available, you have to provide specific undertakings that you will do what is required of you,’ as laid down by two of the government’s ministers: the Minister for Employment and Workplace Relations and the Minister for Education, Science and Training. The outline of the bill says:

The Bill will amend the Higher Education Support Act 2003 to provide for the inclusion in the Commonwealth Grant Scheme Guidelines, requirements to be known as the Higher Education Workplace Relations Requirements. This will mean that a Higher Education Provider’s basic grant amount for a year is increased (5% if the year is 2006; 7.5% if the grant year is a later year) under section 33-15 of the Higher Education Support Act 2003 if the Minister is satisfied that the provider has met the requirements of:

- the National Governance Protocols; and
- the Higher Education Workplace Relations Requirements

by the respective dates set out in the Commonwealth Grant Scheme Guidelines.

All very well and good, but what does that mean? It means that a number of specific provisions have to be agreed to. Those provisions are not about guaranteeing educational outcomes, and they are not about dealing with inequity in teaching other than to say, ‘If you are a better university teacher, you should be able to make more money.’

The specific provisions of this bill are: (1) choice in agreement making; (2) direct relationships with employees—that is, get rid of the unions as a third party to any of the negotiations between employers and employees; (3) workplace flexibility; (4) productivity and performance; and (5) freedom of association. We are back to: how do you kick the Australian Education Union to death? How do you change the whole way that universities have been governed and administered, according to a cloth cut by this government?

The key elements of this bill are social engineering in the higher education sector by the government and a demand for workplace agreements—something they have tried to put in place across the Commonwealth Public Service and across Australia, but there are only about 100,000 Australian workplace agreements in situ. These are, in part, in the mining area.

Earlier today, the member for O’Connor argued that the great success of Australian workplace agreements was that you could end up with one bulldozer driver instead of two. You could give him $20,000 more and you would not have to worry about providing a shed for the other driver. That was an example of how Australian workplace agreements are terrific for productivity and for everyone across the board! The shadow minister indicated in her argument that, if you look at normal practice with Australian workplace agreements, the outcomes are not the ones indicated by the member for
O’Connor in his single example, from which he then generalised outwards.

As the member for Shortland mentioned, women particularly can expect outcomes of two per cent less in total remunerations—it can in fact be more. With regard to this, I want to quote from the shadow minister’s speech—I was in the chair at the time of the speech and took copious notes, and the shadow minister has provided me with a copy. I want to quote directly from what the shadow minister said, because it shows the direct impact on Australian women, who are the majority of employees in places of higher education in Australia. She said:

We know that employees on AWAs earn two per cent less and work six per cent more hours than those on registered collective agreements.

It is interesting to note that a part of the provisions that have to be signed up to in the name of choice and flexibility is a very ‘helpful’ clause by government ministers to be put into AWAs offered to people in the higher education area. The recommended clause is:

The [insert HEP name] may enter into AWAs with its employees. Those AWAs may either operate to the exclusion of this certified agreement or prevail over the terms of this certified agreement to the extent of any inconsistency, as specified in each AWA.

This is about clearing out agreed outcomes, whether they have been agreed through the Industrial Relations Commission or done on an enterprise bargaining basis in the system that operated in the later years of the Hawke government and during the whole period of the Keating government, when workplace bargaining delivered strong outcomes for those employees who undertook them directly. That system also created about one million more full-time jobs—not casual—in the Australian economy for people who otherwise would not have had them. I will quote the shadow minister on the direct impact on women in higher education. She said:

What’s more, women employed on individual contracts earn 11 per cent less an hour compared with men employed on collective agreements. Currently women receive around 90 per cent of the hourly pay of men employed on collective agreements. That percentage is further reduced under AWAs, where women earn only 80 per cent of the hourly pay of men. Casual and part-time employees on AWAs earn 15 per cent and 25 per cent less respectively, relative to their earnings under the terms of collective agreements.

That is the core reason that the Australian Labor Party is opposed to this legislation before us today. It is about stripping away the rights and remuneration of women in particular in higher education in Australia. I do not think that that is right; it should not happen. The government has not only pursued this with an ideological fervour; it has pursued this single-mindedly with a passion and fervour that one might say is virtually religious.

Mr Brendan O’Connor—They are obsessed!

Mr HATTON—The member for Gorton might be correct when he says that they are obsessed. When preparing for this, it occurred to me that they are so obsessed, believe in it so fervently and have such a great passion that the coalition government would have said: ‘We will put AWAs on every one of the twelve Apostles. Simon and Peter, you can sign up. Thaddeus, here’s your AWA, old son. James the Less, you’re signing up on your AWA, are you?’ The Apostles were lucky that they were in the Holy Land and not in Australia in 2005, because this bill directly says that people who are currently either covered by an Industrial Relations Commission award or subject to certified agreements under an enterprise bargaining scheme have to be offered AWAs.
These are to be offered by institutions that know absolutely that the government has taken away from them $5 billion worth of grants since 1996 and has whacked them—as the shadow education minister indicated—in the last couple of years with $838 million worth of funding. Those administrators know that the government is religiously wedded to Australian workplace agreements and that, if you are looking at a five per cent or a 7½ per cent increase, it will be conditional not just on the offer of Australian workplace agreements but on their enforcement where possible. To make it possible, look at all the other provisions that are conditions of that funding being insured. All those conditions are cut from exactly the same government cloth. They are directed towards unionists, or people who are represented by unionists, and involve their being split away and having to individually face the situation in their workplace. Individually in a relatively powerless situation, they are faced by AWAs.

Debate interrupted.

ADJOURNMENT

The SPEAKER—Order! It being 7.30 pm, I propose the question:

That the House do now adjourn.

Fuel Prices

Mr BRENDAN O’CONNOR (Gorton) (7.30 pm)—I rise this evening to talk about the parlous state of the government’s decision making and the failure by this government to consider any proposals to mitigate the adverse effects of petrol increases on the Australian community. It is too bad that milk is unable to fuel a car, because as of today petrol is now more expensive than milk. I went to a supermarket today and purchased a litre of milk and found that the price of a litre of petrol at most petrol stations is in excess of the price of a litre of milk across the country. It is quite extraordinary that we will have to try to convert cars to ensure that they can use milk as a fuel, because the price of petrol has gone so high. I know, as every other member in this place knows, the adverse effects of those increases upon ordinary householders. We know how important it is for families to budget for their petrol allocation—to ensure that they can get to work and drop their kids off to school or to sporting events. It is an essential part of daily life for most Australians.

We on this side also know that there is no easy fix for the global increases, but we do know this: there are ways in which we can mitigate the adverse effects upon households of this country. We know that there are ways in which we can examine proposals to mitigate these effects and to alleviate the burden on ordinary Australian consumers of petrol—that is, ordinary Australian families doing it tough in many respects. I suggest that the government stop fighting amongst themselves in relation to Telstra and what they are doing with that. I suggest that the Treasurer and the Prime Minister stop jockeying to see who will be Prime Minister next year and, instead, focus upon something that is hurting every Australian household.

Yesterday the shadow minister indicated a number of ways that Labor has proposed to ensure at least some capacity by government to mitigate these effects. Firstly, we have said that the ACCC should be investigating why there is such a huge gap between the increase of crude oil and a much greater increase of refined oil. Why is there such a disparity between the relative increase in crude oil as opposed to refined oil? No inquiry has been undertaken by this government or indeed by the statutory authority, the ACCC, and it should investigate why there seems to be such an increase. At the heart of that increase, the difference between the two increases of two forms of oil is petrol companies wanting to get more money than they
should and less money for the consumer. That is the first thing that can happen.

The second thing that could happen—and the shadow minister raised it yesterday in the MPI—is amending section 46 of the Trade Practices Act. Section 46 of the Trade Practices Act has been rendered almost ineffective as a result. There has been a series of judicial decisions, although I do not have the time now to go through those in detail, that have effectively rendered section 46 unable to be used in a proper manner and unable to be used in the way in which it was intended when the provision was enacted by the Commonwealth of Australia. So we say amend section 46 to enable the government to look at ways in which the extraordinary hikes in petrol prices can in some way be alleviated and for the families who are feeling the effects to be helped bear the burden that is occurring to the household budget.

What we see is a government distracted. It is in total control of both houses but it is out of control, and it is also out of touch. This government is increasingly out of touch with the ordinary concerns of householders. I think it is time now for the government to focus on the major issues, not just Telstra—that is a complete scandal and a complete mess—and to look at ways to mitigate the adverse effects upon households of the effect of petrol prices. There are a number of things that could be done. The Chancellor of the Exchequer in the United Kingdom is looking at ways to mitigate those effects. Why isn’t the Treasurer here today? Why isn’t he in the House looking at those solutions? (Time expired)

Driver Training

Mrs MAY (McPherson) (7.35 pm)—I have spoken a number of times in this House about the need for a national driver training program particularly aimed at young drivers. This has not happened and in fact state governments and the federal government are still undertaking more trials and more statistics. We are still no closer to introducing a compulsory national driver training program for all new drivers in this country. Instead, we still see headlines such as the one recently telling of four young teenagers killed in a horrific car crash in Townsville, North Queensland. That is four more young lives that could have been saved. Just weeks before, on the Gold Coast, two teenagers from one of my local high schools lost their lives because of a lack of skills, and that is two more young lives that could have been saved.

The knee-jerk reaction to both these accidents was predictable. The Queensland Minister for Transport and Main Roads has said that he will take to cabinet in the next few weeks proposed restrictions for young drivers. They will include night-time curfews, restrictions on engine size, restrictions on passenger numbers, compulsory first aid training—and the list goes on. But we have heard it all before. Every time young people are killed in road accidents elected representatives make the appropriate noises. They say that, yes, they will do something, but nothing happens. The problem ends up in the too-hard basket yet again or we throw taxpayer dollars at another trial. I wonder just how many trials we need to tell us that we have a problem. Let us do something about the problem and put to use the information we have gained from trials in the past.

The road toll in this country should not be accepted as inevitable. We all hear the statistics each year. Around 1,700 people die on our roads and more than 100,000 are seriously injured. Young Australian drivers aged 17 to 25 years have doubled the risk of drivers of all ages being involved in a fatal road accident. I wonder how many of us stop and count the cost of those statistics—the cost to government and community, the cost to fam-
ily and loved ones and the long-term cost to
the person who has survived but who has
been left crippled for life. What of those
costs?

In dollar terms, road crashes cost the Aus-
bralian economy around $15 billion per an-
um. Fatal crashes cost $2.92 billion. Serious
injury crashes cost $17.15 billion. Minor
injury crashes cost $2.47 billion. Property
damage only crashes cost $2.44 billion. The
human cost is immeasurable. Talk to a par-
et, brother, sister or grandparent about what
it is like to lose a young loved one. It is time
both state and federal governments did
something about these statistics, and I do not
mean more trials. I mean a national educa-
tion program delivered through our schools
to all young people in this country. It must be
compulsory and it must be intensive, but it
must not be just about how to drive to get
your licence—anyone can do that. I am talk-
ing about a holistic approach to driver train-
ing that incorporates proven theoretical and
practical training techniques, combined with
an innovative delivery method which ensures
students have a comprehensive knowledge in
areas such as driving theory, practical driving
skills, safe and effective driving technique,
vehicle maintenance, first-aid, driving in
adverse conditions, vehicle dynamics and the
effects of attitude in practical driving. I am
talking about a minimum of 120 hours of
practical driving experience, and nationally
recognised credentials. A national driver
training course incorporating all the above
and more could be delivered as a certificate
II course through our high schools, technical
training colleges and private training provid-
ers in either a lecture environment or via the
internet.

Driving a motor vehicle is possibly the
most technically difficult activity the average
person will ever undertake. Yet, despite its
complexity, drivers generally take to the road
in a totally unprepared state. Drivers are
taught how to pass a test rather than how to
drive. Young drivers only strive to attain the
minimal competency level required to secure
their licence. This means that drivers are then
left to gather experience themselves and are
not prepared for all the first-time events they
will face on the road.

This government is partnering with the
New South Wales and Victorian governments
in a trial education program for young driv-
ers. This trial is not expected to commence
until early 2006, with a full evaluation not
likely until late 2008. That is more time lost
on more trials, which means more young
people dead on our roads between now and
2008.

I have presented to my government a
comprehensive, holistic driver training pro-
gram that can be delivered through our
schools at a national level now. I respectfully
ask that serious consideration be given to
that proposal. If we as a government are truly
serious about stopping this dreadful carnage
on our roads, let’s do something now, not in
three years time after yet another trial. A na-
tional program delivered as a core curricu-
lum subject can be taught in high schools
throughout this country next year, along with
English, maths, science and IT studies.
Driver training is just as important as those
other subjects and in fact has components of
all those subject areas. As a nation, let’s stop
the carnage on our roads. (Time expired)

Fuel Prices

Ms BIRD (Cunningham) (7.40 pm)—As
a mother with a teenage learner driver, I cer-
tainly commend the member for McPherson
on the proposal she is putting forward. As a
mother who puts the petrol in the tank of the
car driven by my teenage son, I doubt that
this will be much of a problem in the near
future as so few people will be able to afford
the petrol needed for their teenagers to learn
to drive! My office has been very busy in the
last few weeks. It is not that I am particularly unique—I suspect most members of this House have had a similar experience. All Australians, not least those in my electorate, are very worried about the price of petrol.

I acknowledge that this is a very difficult issue. Its complexity is made more difficult by the many factors involved in the price of oil: the role of the refineries, petrol stations, international markets and price cycles and of course excise and GST. Each of us in this place has been approached by constituents, friends and family to ‘do something’ about increased petrol prices. The impact of increased petrol prices is flowing or will soon flow on to the economic statistics. Already the retail sector is warning of slow sales; the tourism sector is reporting slow accommodation bookings and fall-offs in day-trip visitors.

In Wollongong, with its fantastic beaches and a coastline unparalleled in the nation, I can see a difference between visitor bustles on weekends at Belmore Basin a few weeks ago and the slow drip of visitors now. On WIN TV News this week, as the member for Gilmore would know, the busy Terralong Street in Kiama was virtually empty. A survey released in the last 24 hours has revealed that petrol prices are now more of a worry to Australians than terrorism. The Prime Minister told a press conference last week that it would cost nearly $400 million to reduce the excise on petrol by 1c. Such a reduction would arguably have a minimal impact on petrol pump prices but would place a massive structural imbalance into the budget.

The government can and should implement other options, and I would like to address alternative views in this respect. The government can and should implement Labor’s plan, which would ease the price burden on motorists, but it stubbornly refuses to even consider it. It is obvious that price gouging is under way. Motorists do not need access to documents or emails to confirm price collusion and gouging by major oil companies; they just stand at the petrol pump and know what is going on.

The government can and should strengthen the Trade Practices Act to prevent market power abuse and encourage competition; have the Australian Consumer and Competition Commission investigate petrol prices and every six months report on price movements; modernise the current 25-year-old regulatory regime; promote competition in the petrol sector and protect independent service station operators and franchisees; reduce reliance on imported oil and expand the Australian fuel industry; and provide a real future to the biofuels industry. These are real initiatives that can help reduce the petrol bills for motorists and help the fuel industry.

As I said, everyone knows ‘something funny’ is going on, to use the expression of the ACCC chairman a few days ago. I believe the ACCC is more than willing, given the appropriate powers and direction by the government, to investigate price gouging. Why won’t the government give the ACCC the power it needs to ensure competition in the petrol sector and fair prices for Australian motorists? The longer that any government stays in office, the more complacent it becomes. The government is becoming more and more arrogant and complacent. I find it unbelievable that the government would not at least look for options to help Australian consumers.

In today’s newspapers we have stories of the ‘leader-in-waiting’ report given to the coalition party room by the Treasurer yesterday. It is full of advice to his colleagues about the tough issues and about how the government must stick together. There is another piece revealing how a coalition senator told the party room that he wondered
whether his colleagues understood the frustration of opposition and have fooled themselves into thinking they would be in government forever.

I can tell my colleagues on the other side that opposition is no fun. I would certainly prefer to sit on the government side of the chamber as a member of a Labor government and implement the ideas and policies that Labor has. (Time expired)

South Australia: Mental Health Services

Mr RICHARDSON (Kingston) (7.45 pm)—I spoke in the House on Monday night on mental health and said that I would be back to speak about it again; here I am. I spoke about a young lady who shared with those at the National Youth Roundtable her battle with mental illness and the crisis in the South Australian mental health system. There is a desperate breakdown in services in South Australia, with stories filling Adelaide’s Advertiser every day about how the system is failing South Australians—from the woman who was sent home from hospital three times because there were no mental health facilities available, to the woman stabbed by a mental health patient at Flinders Hospital, to the magistrate who recently threw a case out of court because the accused was clearly suffering from an untreated mental illness.

South Australia has the lowest per capita spend on mental health services across the nation. It is an absolute tragedy, because it is costing young South Australians their lives. Making the situation even worse was the decision earlier this year to close the Glenside facility, a hospital dedicated solely to mental health services. Mental illness is a subject which has been taboo for so many years and this has meant that many generations of Australians have suffered in silence. We are now in a situation where the subject is one of public debate; where Australians suffering mental illness are not taunted or marginalised but accepted into mainstream Australia. In this day and age, when the community has come so far in its recognition of mental illness, I simply cannot understand why the state Labor government cannot do the same. Mental illness is a silent killer which takes the lives of many Australians every year and, in the majority of cases, we are talking about illnesses which are treatable and deaths which are preventable. If only the state Labor government would recognise the problem and take steps to help these people who are crying out so desperately.

I stand here today in the hope that it will raise some awareness of the issues and the huge underspend on mental health services in South Australia, let alone all across Australia. I stand here today in the hope that my colleagues on both sides of the House—particularly my colleague opposite, the member for Hindmarsh, who knows very well the deplorable situation that we have in South Australia—will do the right thing. Tell the state Labor government to do the right thing, member for Hindmarsh, and make a difference in the lives of South Australians, who deserve much better from their government.

The Australians most likely to be affected by mental health disorders and most likely to commit suicide are young men. I have two sons and every day that I look at them I thank God that they are not suffering so terribly from a mental illness and that my family are not burdened with their care because the state is failing to look after the mentally ill. I speak with so many constituents who are suffering as a result of this significant service shortfall—constituents who are forced to give up their jobs and look after their loved ones who are suffering at the hands of these crippling diseases. Their loved ones are the lucky ones, because they have family to pick up the slack where the
state Labor government have failed. What happens to those who do not have family to look after them, to make sure they are receiving appropriate medical assistance and care and to make sure that they are safe? The sad reality is that many of them end up like the young man I spoke of earlier who is now facing serious criminal charges. These people simply have nowhere to turn and no-one to help them receive appropriate treatment.

The time has come for the state Labor governments to stop avoiding this issue and to do something to genuinely help those vulnerable South Australians—all Australians—who are suffering at the hands of their inaction and incompetence. The sad reality is that, when this young lady from the roundtable stood up and spoke of her mental health issues, the first thing I thought was that I hoped she was not from South Australia, because under this state Labor government the state funded services are extremely deficient.

I congratulate David Holst and the Dignity for the Disabled party machine initiated in South Australia for the sole purpose of applying pressure to a state Labor government failing to provide the appropriate funding in all areas for families and individual sufferers of a mental disability. The time has come; enough is enough. I support and encourage Dignity for the Disabled and the work of the Mental Health Council of Australia.

Fuel Prices

Mr GEORGANAS (Hindmarsh) (7.50 pm)—I rise to speak on the growing pressure which is being placed on businesses, families, pensioners and all Australians by the increasing price of petrol. I too, like the many speakers before me today, have received a number of calls in my electorate office over the past few weeks. It is quite clear that people are struggling to make ends meet, given that petrol prices have climbed to around $1.40 per litre over the past three months.

Business people I meet with regularly are telling me that their prices are going to have to go up so that they can keep up with their petrol costs. One person told me that he works for a company which sells caravans. He said that over the past few weeks no-one has walked through the door and he is worried he will lose his job. That is because towing a caravan is very taxing on fuel consumption.

Another gentleman I spoke to at a business dinner last week said his construction business is already being affected. He has tendered and quoted for large scale contracts at a price which does not take into account the current costs of running construction equipment such as prime movers. He told me that he thought he may have to lay workers off to be able to work within the budgets that he had planned. But businesses are not the only ones being affected. Pensioners are staying at home more because they cannot afford to fill up.

The social and economic consequences of the government’s inaction on this issue are profound. The inflationary effects of petrol prices will dramatically change our economy. There is a real danger that, if we have inflation that is caused by the astronomical petrol price hike, the Reserve Bank may have no other option but to look at the possibility of increasing interest rates. That, we all know, would be a tragedy. The additional impost on the household budget will reduce people’s mobility. For elderly Australians, who make up around 20 per cent of the population in the electorate of Hindmarsh, the resulting social isolation can lead to health issues such as depression and reduced physical activity.

The government claims that it has no role to play in reducing petrol prices, but this is
just an ideological position based on a belief that it should not interfere, even when people are hurting—and they are really hurting at the moment, with a petrol price of $1.40 per litre. There is absolutely no excuse for a government elected by Australians not to take action on an issue which is affecting so many people’s lives. It is interesting to see that, as average consumers pay through the nose at the petrol bowser, oil companies are recording increased profit margins. For the government to stand by and claim that there is nothing that it can do is ridiculous. If nothing else, it could investigate the options and find out how this issue could be managed. Under no circumstances is it the right thing to stand by as Australians suffer. Earlier today the Treasurer stood here and said the following:

... petrol prices are punishingly high. These high petrol prices are punishing consumers. High petrol prices are not good for business, high petrol prices are not good for the government, and high petrol prices are not good for the economy. If anybody is welcoming high petrol prices, let me suggest to them that it is not in the interests of the Australian consumer or in the interests of Australian business.

Despite that acknowledgment, this government stands by and does nothing. Obviously, these price hikes are having the biggest effect on families on tight budgets. These people are the Australian battlers that this government claims to represent. It appears that they have been forgotten.

There are almost 13,000 people in my electorate who are living in poverty. Sadly, I suspect that that number is about to grow as a result of rising petrol prices. South Australia has the highest percentage of people living in poverty of any mainland state or territory. Many people also travel considerable distances between home and work. Adelaide itself runs for almost 100 kilometres from the north to the south. Because of our sprawling city and dispersed population, people depend on their cars. Their car is a necessity.

Australia consumes oil at three times the rate at which we find it. We import 60 per cent of our domestic oil. We need alternatives to petrol and we need the ACCC to get serious about price gouging. Instead of continuing to increase our reliance on imported oil, this government should work on growing an Australian liquid fuel market to help cut our import bill. We have vast reserves of natural gas which could be converted into liquid fuel. Australia also has to get serious about biofuels. Research and development in renewable energy is not nearly as advanced as we need it to be. The government could take immediate action to amend the Trade Practices Act to prevent the abuse of market power and other unfair practices which drive out competition. Regular monthly reports from the ACCC on petrol price movements would also be a good idea, and the Petroleum Retail Marketing Franchise Act 1980 and Petroleum Retail Marketing Sites Act 1980 could do with updating.

We know what the problem is. Now we are at a crisis point, and this government is doing nothing about it. Now is the time to take action, not when it is too late. If the government were not so out of touch, it would understand that there are things that can be done to help Australians cope with rising petrol prices, and it would not back away from its responsibility to do so. (Time expired)

Beattie Government

Mr LAMING (Bowman) (7.55 pm)—I welcomed in my electorate of Bowman—in that so very vibrant local economy and delicate ecology—the visit of Premier Peter Beattie and his community cabinet last weekend. I would always welcome that kind of connection with the community were there not the great risk of community cabi-
nets turning into a circus of fawning, toady-
ing, sycophantic self-congratulation and back
patting, which is exactly what transpired at
the weekend.

Eighteen months through Premier
Beattie’s term in office, it is probably a very
good time for a half-term report card and,
probably even more importantly, a bit of
plain English in that report. As we know very
well, Mr Speaker—and it is right here in the
government finance statistics from the
ABS—Queensland’s coffers are growing
much faster than those of every other state.
In the year 2003-04, the Commonwealth
grew by around 7.2 per cent in gross gov-
ernment revenues, New South Wales by four
per cent and Victoria by five per cent. One
would expect increases in social service ex-
penditure to be in that order. In Queensland
the growth was 25 per cent in a single year
thanks to GST and burgeoning stamp duty
returns.

The question I put to you today is this:
have we really got a premier with his priori-
ties right? When we talk about roads, schools
and hospitals, are we seeing an increase of
25 per cent, as is reflected in Peter Beattie’s
own net government revenue? In schools, we
have seen a time line to remove asbestos
from a number of schools in my electorate
stretched out to 10 years when we know that
other states are doing it in half the time. We
have seen appalling conditions in our state
schools—rotting boards, rusting beams and
old leaking toilets in an appalling state. As to
the hospitals, in Queensland we are aware of
secret waiting lists and very weak efforts to
defend the fact that they do exist. And, most
importantly of all, in my electorate, there are
the roads that run to Brisbane and the 15-
year commitment to develop a two-lane road
to Redland Bay and Victoria Point.

Emergency services have been a constant
struggle in my electorate. A fire station was
offered and lost—returned to Brisbane when
they could not settle on a location and an
arrangement for a fire station in the southern
half of our electorate, leaving us with re-
response times of 15 to 18 minutes, far too
long to save a family in distress with a house
fire. And, lastly, there is the long and belea-
guered wait on the lower bay islands for a
police station. When that police station does
finally come to Macleay Island, it will be
way too late for many of those residents who
needed proximal law and order long before
today.

What did we have from the community
cabinet? We had old announcements about
long overdue power infrastructure spending
and Energex; we had regional export awards
that are a combined Commonwealth-state
responsibility anyway. We were majoring in
the minors, with action to prevent crab pot
theft. There was news about a new nursery
arrangement for the overseas export of pines
to Disneyland in Hong Kong. And, finally, it
was announced that the plans for road exten-
sions would be on view.

These are slim pickings. It is not to dimin-
ish any of those important recipients, who
include the Cooee Indigenous elders and the
Capalaba intergenerational activity centre,
who got some piloting money for a feasibil-
ity study. It is not to diminish those worthy
groups, but just to say how far those out-
comes are from the objectives of ordinary
Redlanders. As Robert McKain said, the rea-
son that most goals are not achieved is that
we spend time doing second things first.

I can hear it now from a song, a ballad,
from a generation both you and I would re-
call, Mr Speaker—a ballad spreading across
the Redlands with eerie familiarity. It is a
growing voice that we are hearing right
throughout my electorate—what we want is:
... a little less conversation, a little more action
please
All this aggravation ain’t satisfactioning me
A little more bite and a little less bark
A little less—
smart state—
and a little more spark.

What are the Howard government’s priorities? Bulk-billing is going up and nearly half a million dollars of school infrastructure is going in.

The SPEAKER—Order! It being 8 pm, the debate is interrupted.

House adjourned at 8.00 pm

NOTICES

The following notices were given:

Mr Abbott to move:
That subparagraph 47(c)(ii) of the standing orders (motion for suspension of standing orders without notice can be carried only by an absolute majority of Members) be suspended for the sitting on Thursday, 15 September 2005.

Mr Abbott to move:
That, in relation to proceedings on the Telstra (Transition to Full Private Ownership) Bill 2005 and the Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005, so much of the standing and sessional orders be suspended as would prevent:
(1) the 2 Senate messages transmitting these bills for concurrence being reported together;
(2) each bill then being read a first time and then being considered together through all stages without delay;
(3) if not disposed of earlier, consideration being interrupted at 12.30 p.m. on Thursday, 15 September 2005, at which time:
   (a) any question then before the Chair to be put, together with any question or questions necessary to complete the stage which consideration of the bills has reached; and
   (b) the further question—That the remainder of the bills be agreed to—being put forthwith without amendment or debate; and

(4) any variation to this arrangement being made except on motion without notice moved by a Minister.
The DEPUTY SPEAKER (Hon. IR Causley) took the chair at 9.30 am

STATEMENTS BY MEMBERS

Poverty

Ms BIRD (Cunningham) (9.30 am)—In eradicating poverty, it is obviously important that our community and future generations are committed to this important issue. I am pleased to provide to the House today some extracts from letters about this issue that I received from young people attending Lindsay Park Primary School in my electorate. I would like to read out some quotes from those letters, as follows:

Dear Ms Bird, In my opinion I think the government should cancel the debt owed by the poorer countries since they can hardly pay the income. I also think that the government should put more money into supporting these countries because every three seconds someone dies in these countries. Lastly I would like the Government to continue fair trade with the poorer countries so they don’t get ripped off from buying things from us and they get better deals. Hopefully you can try to raise these issues with the government so they can do something about it and try to stop the poverty and let kids and their parents live a normal life without the worry that they will drop dead at any moment. I hope that you will do something to help these less fortunate countries through these rough times. Yours sincerely, Isabella.

Dear Ms Bird, These are the goals that the UN have made-up. They are trying to achieve these goals. The UN summit is in New York from 14-16 September. If you can go along please wear your wristband to show you care about poverty. Yours sincerely, Jessica.

Dear Ms Bird, Congratulations on achieving the halving to poverty in East Asia and the Pacific. So I think that you and John Howard can surely improve the poverty in countries that only live on $1 a day like sub-Saharan Africa. So Ms Bird, if you don’t mind, please give poverty a really big thought and say “Make Poverty History”. Yours sincerely, Samantha.

Dear Ms Bird, We have been learning about people in poverty and I’m trying to help by writing a letter to you. I think that sub-Saharan Africa needs more help from people, but congratulations on helping East Asia and the Pacific but I want to help by halving property. Yours sincerely, Brittany.

Dear Ms Bird, The UN has succeeded in halving poverty in East Asia and the Pacific from 28% to 14% in 9 years but have to work on sub-Saharan Africa which is only changed by 1% from 48%. Thank you for reading this letter and awaiting your reply, Jeremy.

Dear Ms Bird, Congratulations on already halving poverty in East Asia and the Pacific, now the target has already been hit we also need to help sub-Saharan Africa, Europe and central Asia … The wristbands that we are sending you are to raise awareness of the G8 summit in New York, hosted by the United Nations … One person is dying every three seconds, that’s 30,000 people dying a day. With thanks, Haydn.

Dear Ms Bird, The UN should be congratulated on the wonderful effort of cutting the poverty down in east Asia and the Pacific. Though we need to work on fair trade from larger … countries and the smaller poorer countries so the smaller countries are not ripped off. Yours sincerely, Sean.

My congratulations to the children of Lindsay Park Primary School. (Time expired)

Health: Prostate Cancer

Mr SLIPPER (Fisher) (9.33 am)—Today I would like to speak on a form of cancer that is having a huge impact on Australia. I want to immediately follow up that comment by expressing my congratulations to the key group responsible for raising public awareness of this afflic-
tion, and to urge those who fit into the at-risk category to have a check-up. The cancer I refer to is, of course, prostate cancer, which claims the lives of just as many men in Australia as breast cancer does women. The group that must be applauded for doing such a tremendous job in informing those most at risk is the Prostate Cancer Foundation of Australia. I would also like to commend the federal shadow Treasurer, the honourable member for Lilley, and the Minister for Local Government, Territories and Roads for the letter they sent out, presumably to all members of parliament, dated 29 August, encouraging awareness about the insidious nature of prostate cancer.

This month is Prostate Cancer Awareness Month. It is a time when the message about prostate cancer is given that extra push in the effort to spread the message to those at risk and, most importantly, to save lives. The issue of prostate cancer at present seems to be at a similar point on the public awareness scale as the issues of breast cancer and cervical cancer were perhaps a decade ago. Back then, and in the years preceding, it was difficult to have a public discussion about cancers that target those parts of a woman’s anatomy. They are private parts and it was widely considered to be rude to talk publicly about them.

But things have changed and breast cancer is now recognised as the real problem that it is, and open discussion is encouraged because lives can depend on it. The topic of prostate cancer needs to go through a similar transition. It needs to change from being regarded as a private topic, discussed only behind closed doors, to being regarded as an open issue, the understanding of which can prolong life. It is a well-known truth that men often delay going to the doctor until they are suffering serious symptoms. They may regard it as a sign of weakness to admit that they have a problem. With prostate cancer symptoms can be minor. By the time symptoms become serious the cancer may be well advanced.

The message from the Prostate Cancer Foundation is that prostate cancer checks should become routine. There is an Australian saying that ‘real men don’t eat quiche’. Real men do eat quiche, and real men should also take the topic of prostate cancer seriously. It is really important, if you are in the at-risk group, to go and have a check by your doctor. It is particularly important if you have a family history of prostate cancer that this occurs.

It is important that as a community we raise awareness of this growing problem. It is a hidden problem to a certain extent, but all of us would know some people who have been affected by the tragedy of prostate cancer. There are a lot of support groups there. They deserve our backing. It is really important to raise awareness of prostate cancer in the Australian community in 2005. (Time expired)

Australian Netball Players Association

Mr DANBY (Melbourne Ports) (9.36 am)—During September we have had a wealth of spectator sport on our TVs and radios. It is football finals time in Melbourne and I, along with most of my electorate, am confident that the mighty St Kilda Football Club is advancing to its first flag since 1966. We have had the epic tragedy of Australia losing the Ashes and Lleyton Hewitt’s gallant performance at the US Open.

But not many people here realise that the most popular sport in Australia, certainly in terms of participation, is not football, cricket or tennis; it is netball, which is played by nearly 300,000 people, mostly young women, and has a huge following across the country. Last year 14,000 people watched the Australia versus New Zealand test in Sydney. Netball is one of the
great success stories of Australian sport and it is a pity that it does not get more media attention—although this is beginning to change and the ABC does screen some of the better matches.

On 10 September the Australian Netball Players Association held a reception at Raheen, the splendid Victorian mansion at Kew which was the home of Archbishop Mannix and is now owned by the Pratt family. Richard and Jeanne Pratt generously and kindly lent Raheen to the Australian Netball Players Association for this event. Liz Ellis, the chairperson of the ANPA and Australia’s netball captain, welcomed netballers from all over Australia and other guests including the Victorian sports minister, Justin Madden, and women’s affairs minister, Mary Delahunty, and the legendary netball coach Joyce Brown OAM. At the reception, ably hosted by Sue Gaudian, the following awards were presented: the Brown/Ellis most valuable player award to Catherine Cox, the Simone McKinnis centre court award to Natalie Von Bertouch, the Vicki Wilson goaller award to Catherine Cox, the Kathryn Harby-Williams defender award to Liz Ellis and the rookie of the year medal to Jo Curran. I would like to congratulate all of those people, as well as Liz Ellis, the netball players and their supporters, for making the sport a success.

The reception was organised by my friend Bill Shorten, the National Secretary of the Australian Workers Union, one of Australia’s largest and oldest unions. Most people think the AWU is a union for shearers but in fact it is one of Australia’s most innovative unions and has expanded to include workers in such diverse industries as metals, aviation, oil, gas, mining, construction, food processing and retail. The reason Bill Shorten was at the Raheen reception for the netballers was that the AWU and the ANPA have recently come to an agreement under which netballers are becoming unionised.

We often hear from members opposite that trade unions are dinosaurs, that they have no useful role to play in a brave new world of individual contracts and that they are all run by crooks and thugs. The AWU shows that unions do have a role to offer and that they play a vitally important role in helping workers of all kinds maintain and improve living standards and conditions of employment. Why did all the glamorous young women and national netball players want to join a union? Because like other workers they suffer economic disadvantage in an unregulated labour market. Most of the players in the eight teams that make up the elite netball competition earn less than $5,000 a year, forcing them to maintain full-time or near full-time employment to make a reasonable living. But three-quarters of them spend more than 26 hours a week on netball related activities, creating an intolerable conflict between sport, employment and family commitments. If netball is becoming an elite professional sport it is time the sport started paying its players properly. (Time expired)

Fuel Prices

Mr MICHAEL FERGUSON (Bass) (9.39 am)—I rise to bring to the attention of the House one of the most pressing issues worrying consumers in my electorate of Bass—petrol prices. I have been contacted by many local people, including people like Mr Kerry Bonney of Ravenswood, who ask me and the government to do all we can to bring prices down. I read today that the recently released Sensis Consumer Report has shown that petrol prices are at the top of the list of Australians’ concerns, even ahead of terrorism, the health system and the environment. Fifteen hundred Australians were surveyed in late July and early August. The report finds that people are not anticipating any petrol price relief in the near future, with half
of those surveyed expecting to spend more on transport costs in the coming year. The report also finds that Australians in rural and regional areas are more concerned about petrol prices than their city counterparts. That is easily explained by the fact that people outside the cities have to travel longer distances and then there are the implications for freight costs impacting more in regional areas.

Petrol prices in Australia are among the lowest in the developed world. The most recent figures available from the International Energy Agency show that the post-tax retail price of petrol in Australia was the fourth lowest among OECD countries at $A1.03 per litre. For the same period, average prices in the UK were $A2.05 per litre, in Japan $A1.49, in Germany $A1.89 and in the USA $A0.69 per litre. Australia has the fifth lowest pre-tax petrol prices in the OECD.

Australian petrol prices are linked to international prices because around two-thirds of the oil used in Australian refineries is imported. Australian producers are free to export crude oil, LPG and petroleum products into international markets and to obtain the best price they can. So one can appreciate how imported product and locally produced product would have similar price movements. International prices for petrol, as with other commodities, are set by supply and demand factors rather than products costs. The government therefore has as much ability to control the market price of petrol as it does for milk—except for the taxation that governments levy on fuel. That brings me to excise and the GST.

Petrol is subject to the GST. However, the Australian government does not receive any direct revenue effects from changes in petrol prices. It is a common misconception that the Australian government spends the GST, but that is not so. The Australian government does not benefit from the GST—all of it is passed on to the states. Interestingly, the only winners from higher fuel prices are the state governments, which receive increasing amounts of GST. I have been advised that every 1c increase in the retail price of petrol yields the states a bonus of $18 million. I also note that only one state in Australia uses its GST to subsidise the cost of fuel—that is, Queensland. Today, I challenge other states, including my state of Tasmania, to follow this lead. (Time expired)

Public Libraries: Internet Pornography

Mr Byrne (Holt) (9.43 am)—On 17 August I raised a matter of concern to this House and also to the many families residing in my electorate—that is, my call to install internet pornography filters in public libraries, particularly in the city of Casey. This arose out of a seminar that I attended by American academic Mary Anne Layden, who spoke about the fairly pernicious effects of internet pornography, particularly on young children. Given that, one would think that the community standard would require that, if a child or an adult accessed a publicly funded library, they would not be able to access pornography in any way, shape or form, but the fact is that, across Australia at present, you can walk into public libraries and in many cases access pornography of the most violent and vile type. Recently at a library in New South Wales a gentleman was caught downloading child pornography. I do not know whether I come from a different planet but I think that in a government funded facility you should not be able to access something that causes harm to children. Subsequent to raising this matter in parliament on 17 August I have been inundated by people across Australia and from within my own electorate supporting this not unreasonable call. Libraries are funded partially by the federal government and by state and local governments.
After this call, one would think that libraries—particularly the Casey-Cardinia Library Corporation, which has a lot of children accessing these services—would as a matter of priority install these filters—but no. In fact, before I had risen to speak about this matter in parliament, a journalist from Leader Newspapers had, as an experiment, gone into one of these libraries and downloaded pornography for half an hour—unchecked and unsupervised. This matter was addressed by the Casey-Cardinia Library Corporation after I raised this matter, and a letter written to the Leader Group by Councillor Gary Runge, chairman of the Casey-Cardinia Library Corporation, effectively says that it cannot be done—that it does not need to be done. As a parent and legislator, I am not going to have a librarian or someone representing librarians saying to me, ‘If, as a matter of chance, people can access pornography in a library, so be it.’ That is not acceptable. We in this place set the community standards and I say that libraries have to install internet pornography filters as a matter of priority, and if they cannot do it by choice then it should be mandated. I will continue this campaign until, as a matter of public policy—federal, state and local—a child who walks into a library will be protected by an internet pornography filter in the library. *(Time expired)*

**Carers: Disability**

Mr KEENAN (Stirling) (9.46 am)—Yesterday, families of people with disabilities from around Australia gathered in Canberra at a rally called ‘Walk a mile in my shoes’. They wanted to convey a powerful message about the difficulties faced by people with a disability and by their carers. I fully support their cause. The Australian government is continually working to improve conditions for carers and announced new measures yesterday in which carers of children with severe intellectual, psychiatric or behavioural disabilities that result in challenging behaviours may be eligible for the carer payment. Eligibility for the carer payment will give more support to several thousand people. These changes to the carer payment, which are worth around $57 million over four years, underline the Howard government’s strong commitment to supporting the needs of carers around Australia.

It is an issue that I have committed myself to. On 30 June this year I had the privilege and honour of being adopted by Ms Jodie Quarmby as part of the politician adoption scheme. As many of you would be aware, this is a program coordinated by the Development Disability Council that allows for a disabled member of a community to adopt a politician. Jodie, who turned 29 last week, suffered brain damage at the age of 23, after her brain was starved of oxygen, and she was not expected to live. Against the odds, and showing her fighting spirit and determination, Jodie has pulled through and continues to make daily improvements. Three and a half years after her life-altering injuries, Jodie moved into her own residential unit, which was provided through Homeswest. Shortly afterwards, she was granted funding by the Disability Services Commission, which allows for carers to assist her for approximately 20 hours a week.

Whilst this is invaluable help, the responsibilities that this places on her mother, Jenny, and the rest of the family are immense. I hope to become better informed about the issues and challenges they face, in order to assist them to the best of my ability. Jodie’s mother, Jenny, like so many other carers, is a remarkable individual. She is Jodie’s primary carer. I know that this presents immense challenges, but her positive attitude is inspiring. Amidst these challenges, Jodie is very lucky to have a mum like Jenny. Whilst I have had the pleasure of meeting the Quarmby family, it is important to remember that they are just one family out of the
thousands who are struggling with carer responsibilities and the immense pressure that places on their lives. In my home state of Western Australia there are approximately 60,000 people under the age of 65 with profound or severe disabilities. It is estimated that for every West Australian with a severe disability at least one family member is affected, whether through providing support or helping to care for their loved ones. Hopefully, through being involved in the politician adoption scheme and with the opportunities I have had through meeting the Quarmby family, I can become better informed about the issues that Jodie and her family face. I take this opportunity to congratulate all my colleagues in both houses who have decided to become part of this invaluable program. (Time expired)

Port Adelaide

Mr SAWFORD (Port Adelaide) (9.49 am)—From the very beginning of European settlement in South Australia, state governments and authorities have had a very uneven record when it comes to infrastructure investments, particularly in the north-west suburbs of the Port of Adelaide. In 1941 the Birkenhead Bridge was built in the wrong place for the wrong reasons. In 1961 the former opening Jervois Bridge was replaced by a fixed bridge, destroying the upper reaches of the Port River and the future connections to West Lakes and the sea at Grange.

When in the 1970s and the 1980s employment levels fell by thousands and the port was desperate for redevelopment of its business, retail and leisure centres, the state governments of the day ignored their plight. Major shopping centres were built at Andale and Westlakes and a badly thought out Myer project was abandoned, yet managed to destroy a whole community. In the meantime, the Port Adelaide shopping precinct, formerly the biggest outside of Adelaide, continued to deteriorate.

The Bannon Labor government certainly recognised the problem and a renaissance was begun in the mid-1980s. Unfortunately, the 1987 stock market crashed and the demise of the State Bank put an end to that. The subsequent Brown-Olsen Liberal government totally ignored the needs of Port Adelaide, but it was not always like that. From 1836 the Port of Adelaide and its surrounds was the landing place for the first and subsequent generations of European free settlement. Before roads and railways were built, South Australian farmers, miners, merchant traders, shipping companies, ships’ captains, engineers, doctors, teachers, clergy, stonemasons, carpenters, builders, artisans and labourers met in the meeting rooms of the port, in hotels, tearooms and church halls and basically planned the future of the fledgling colony of South Australia. They did not get everything right, but what they did lasted many years. Railways, electric tramways, bus ways, bridges, electricity and so on were quickly introduced, often before anywhere else in Australia. The community demanded the best options, and largely got them.

However, that terrible decision in 1941—the Birkenhead Bridge—was followed by even worse decisions in every decade after World War II until Mike Rann in grand final week last year announced a $1.2 billion redevelopment of Port Adelaide—at long last, positive action. But if some people get their way, that much needed development will be threatened by another proposed development at Cheltenham Park Racecourse. Both cannot be sustained. The SAJC, forgetting that its core business is horse racing, wants to sell the Cheltenham racecourse. Some in the state bureaucracy, the Liberal opposition and the Charles Sturt Council want to do the same. However, it is prudent to remember the record of those who support the
sale of Cheltenham. They have form. Huge parcels of land have been sold to save the SAJC. Millions of dollars were given to the SAJC by government to rebuild their infrastructure. The SAJC is the beneficiary of many years of rate subsidies from the Charles Sturt Council. The TAB, a cash cow if there ever was one, was sold to secure the SAJC for 50 years. It all failed. So will the sale of Cheltenham if the short-sighted, partisan and selfish people backing its sale get their way. Unfortunately, there could be collateral damage to the planned redevelopment of Port Adelaide. That is not acceptable, and I urge my state colleagues and Premier Rann to resist the sale of Cheltenham—(Time expired)

The DEPUTY SPEAKER (Hon. IR Causley)—I welcome the former Deputy Speaker of the House of Representatives, Mr Gary Nehl, back to his old fiefdom of the Main Committee.

Mr Graham Gow

Mr TOLLNER (Solomon) (9.52 am)—Today I want to talk about a great mate and a dead-set Territory legend. People reckon that the Territory is a place where only crocs, beer and page 3 girls survive and where going troppo is a disease suffered by all and sundry. But Graham Francis Gow was a man who made the Territory the place it is now. Graham came to live in Darwin in 1973 and by 1974 was curator of reptiles and amphibians for the Northern Territory museum, undertaking many tasks such as preserving Sweetheart for the museum to display. After setting up the crocodile farm at Noonamah, he opened Graham Gow’s Reptile World at Humpty Doo in 1982. He achieved many things in the world of herpetology and tourism. Graham discovered and described species and he has had species named after him. He was the quintessential snake man. He wrote many books, posters and papers and won the inaugural Northern Territory Brolga Award for his contribution to tourism. In 1989 he won the Whitley Award from the Royal Zoological Society of New South Wales for the best field guide. His consultancies to government, universities, hospitals and education at every level gained worldwide recognition for his work and observations.

Rugby League was one of Graham’s other great loves, where he had friends and he participated at every level of the game. He loved his juniors and he had great success coaching at the club and at the representative level. The kids at Camp Quality will also miss Graham Gow. He used to put on fund raisers at shows and country fairs and the like where he raised many thousands of dollars for Camp Quality. Graham was a larger than life character who would help people from every walk of life, from doctors in England and America to someone he met on the Birdsville Track. He loved to contribute. He was famous for his one-liners. He loved the Northern Territory and he loved his block at Humpty Doo. In 2001 Graham was diagnosed with cancer. He fought it with everything he had. He was cared for by his wife Suzanne to a level that only love can give. Graham is also survived by his children Stephen, Johanne, Lisa, Jason, Samantha and Michael. Graham Gow was a Territory legend, a man who saw the Territory as a frontier and one who wanted to live his life on the frontier. Farewell to my mate, farewell to a Northern Territory legend, Graham Gow.

Veterans: Health Services

Mr QUICK (Franklin) (9.55 am)—Today I feel like one of those Old Testament prophets preaching in the wilderness. Why do I say this here in the Main Committee? I want to raise yet again the issue of this government’s failure to sort out the mess that is veterans’ entitlement to first-class medical treatment, the gold card. I have raised this issue numerous times both in the Main Committee and in the House on behalf of my veteran community in Tasma-
nia. As members, we are currently all busy organising or attending VP celebrations in our electorates to highlight and to recognise the contributions that veterans made during the Second World War. But what we are giving them is in fact a second-class medical service.

Yesterday, at the 90th national conference of the Returned Services League of Australia, this issue came up again. I would like to put on the public record comments made by some of the key movers and shakers at that conference. The Minister for Veterans’ Affairs, the Hon. De-Anne Kelly, detailed the commitment in an address at this congress. Mrs Kelly said that, of the medical specialists across Australia, 381 had chosen not to accept the gold card—which is one of the two repatriation health cards. There are 381 bloodsucking specialists, rich people, who I think are demeaning the profession that they work in. Three hundred and eighty-one specialists across this country have said: ‘Stick it up your jumper. We’re not going to recognise that.’ I think we ought to name them, and I am going to work as hard as I can to find out who they are. I know that some are in my state. We have the ludicrous situation of the Department of Veterans’ Affairs flying veterans out of Tasmania for treatment. At the conference, the RSL Tasmanian president, Mr Ian Kennett, described the solution as impractical. He said:

We had one veteran go over with a bad back, he went 18 times. You only have to have one bad landing and they are back to zero where you need to have him.

This is a ridiculous situation, because the government and the specialists have not agreed on payments. I say to the specialists: ‘You bloodsuckers, you’re taking advantage of the benevolence of the Commonwealth health system. You’re abusing the trust that you put in our veterans when they went overseas.’ We are short-changing the veterans. I know that members on both sides of the chamber see this as a real issue. I urge the government to settle it once and for all, to drag the specialists to the table at a national level and say to the 381 specialists: ‘Enough is enough. You’re making enough money out of the government. Let’s do something to resolve this issue.’ (Time expired)

Special Air Service Regiment

Mrs GASH (Gilmore) (9.58 am)—Several weeks ago, I was invited by Ian McPhedran to join with the Prime Minister at a book launch at Duntroon, here in Canberra. It was a family affair with Ian’s wife, brother, father and close friends from the Southern Highlands all in attendance with many defence personnel. The book is titled The Amazing SAS, written by Ian McPhedran and launched by the Prime Minister. It details the contemporary history of the role of Australia’s elite Special Air Service Regiment, which is headquartered at the Campbell Barracks in Western Australia.

Ian is the son of Colin McPhedran, who wrote a book titled White Butterflies. It details his story as a young man in Burma during the Japanese invasion in World War II. Colin is in many ways my mentor—a role he has played for most of my life—and is someone I deeply admire. His son Ian is a credible Australian journalist and correspondent, with a particular interest in defence matters. He writes from his experience of the many countries where he has witnessed the work of our men and women at the front lines. He speaks, lives and works with them and develops a first-hand understanding before he writes his articles. He went to Iraq on the commencement of hostilities and it was from there that he gained an insight into the shadowy world of the SAS—our finest soldiers and front-line defence against our war on terrorism.
Ian’s book records the recent activities of the SAS and makes a damned good read. But it is not my purpose to review the book as such, for it has been well done by others. In a way I am paying homage to his father, for in Ian I see many of the qualities of Colin. Ian and I do not always see eye to eye on many issues and his brand of politics is slightly different from mine, but that does not stop me from giving credit where credit is due. Ian’s journalistic expertise has enabled a book to be constructed that will serve as an insightful aid to anyone who is interested in how our premier military unit operates.

As legendary as the exploits of the SAS regiment are, we should not be lulled into thinking that they are ‘super soldiers’. Indeed, in the preface to the book Ian comments:

The soldiers and commanders of the SAS regiment have made it clear to me that they do not consider themselves heroes. Nor do they think of their actions as particularly outstanding or amazing. There is a certain ability in their laconic humbleness, but everyone has a limit, even highly trained soldiers as these men are.

Ian’s message is that if these soldiers are so well regarded and if we want to encourage others to follow in their footsteps, we should be guaranteeing that they are looked after when they need help. Their jobs are highly demanding and highly stressful and it is natural that they will suffer as a result—not only they but their families. If I might paraphrase Ian’s comments, things have improved in terms of compensation for war veterans, but there is still a long way to go. It is not good enough for families to have to rely on charities, such as the SAS Resources Trust. Those sentiments I can only echo. We must do more to protect one of our most valued defence assets. As in the Battle of Britain, the aircraft can be replaced but good pilots cannot. So too our SAS troops. Ian has done a sterling job in highlighting the humanity behind the legend. We will never share the experiences of these soldiers, so we will never appreciate what they are feeling. This book opens a little window, and from that I hope we see enough to appreciate an asset when we see one.

The DEPUTY SPEAKER (Hon. IR Causley)—In accordance with sessional order 193, the time for members’ statements has concluded.

PROTECTION OF THE SEA (SHIPPING LEVY) AMENDMENT BILL 2005

Second Reading

Debate resumed from 8 September, on motion by Mr Truss:

That this bill be now read a second time.

upon which Mr Ripoll moved by way of amendment:

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

“whilst not declining to give the bill a second reading, the House condemns the Government for failing to uphold Australia’s national interest by adopting anti-Australian shipping policies that favour foreign vessels and crew, despite the risk to national security, Australian jobs and the natural environment”.

The DEPUTY SPEAKER (Hon. IR Causley)—The original question was that this bill be now read a second time. To this the honourable member for Oxley has moved as an amendment that all words after ‘That’ be omitted with a view to substituting other words. The question now is that the words proposed to be omitted stand part of the question.

Mr DANBY (Melbourne Ports) (10.01 am)—I am pleased to rise this morning to support my friend the honourable member for Oxley in his perceptive comments on the Protection of the Sea (Shipping Levy) Amendment Bill 2005. Previous speakers have outlined the general
provisions of the bill. It amends the Protection of the Sea (Shipping Levy) Act 1981. The original bill enabled the government to impose a levy on shipping at the rate of 6c per tonne of a ship’s tonnage to fund the national plan to combat pollution of the sea by oil and other noxious and hazardous substances. The original bill was passed with bipartisan support and has generally served the nation well. This bill removes the maximum level of the levy, enabling it to be set by regulation. This will allow the levy to be increased to fund a national approach to maritime emergency towage while still continuing to provide funds for the national plan to combat pollution of the sea.

For a number of reasons, outlined by the member for Oxley, this is a sensible and necessary measure and it has the support of the opposition. Worldwide shipping is growing at an exponential rate, and Australia is a major user of shipping services for both international and domestic trade. As trade will grow, particularly in Australia, there will be more and more use of ships coming through Australian waters. This is particularly true of my home city of Melbourne. This means we need to adopt innovative measures to ensure both maritime safety and environmental protection of our waters and coastlines.

It is essential for Australia’s maritime emergency services that they be maintained at a high state of readiness so that the ever-present threat of a catastrophe, such as the Exxon Valdez, can be prevented. Most Australians live within a short distance of our very long coastlines, which are seeing an ever-increasing volume of shipping as international trade grows. We therefore have a major responsibility to prevent maritime ecological disasters. We must protect national treasures such as the Barrier Reef. I was pleased that my friend the member for Oxley pointed out the very regrettable pollution of the Barrier Reef in 2002 by the Panamanian registered flag of convenience ship the Pacific Quest, which left an oil slick of 70 kilometres along the Barrier Reef. We must do everything possible, including passing this bill—and the member for Oxley suggested an amendment—to prevent that type of incident occurring in the future.

It is appropriate that these services be paid for by the shipping industry itself through this levy, and it is also appropriate that the government have the power to vary the rate of the levy so that it produces enough revenue to meet the need for maritime emergency services and to prevent pollution of our maritime environment by oil spills and other discharges from ships in Australian waters.

It is commendable that the member for Oxley has taken such a close interest in this subject, since he represents an electorate which has no coastline. I, however, represent a waterfront electorate containing both the great port centre of Port Melbourne and a long stretch of beachfront in Melbourne’s beautiful Port Phillip Bay. My constituents take a close interest both in maritime safety issues, since many of them work in the maritime industry, and in the maritime environment, since they enjoy the beachfront lifestyle in areas like South Melbourne, Middle Park, Albert Park, St Kilda and Elwood. They do not want to see a maritime environmental disaster such as an oil spill in the enclosed waters of Port Phillip Bay.

I agree with the comments of the member for Oxley that, while we support this bill, we have some doubts that the government will carry through their good intentions. This government have shown in the past that their relationship with some shipowners and stevedoring companies is far too cosy for the national good. To make this arrangement work, the government need to cooperate with industry, unions and state governments. But this government’s
record is not one of cooperation with state governments and certainly not with unions. It is one of special deals for some corporate friends, especially in the maritime industry, where some people in particular are very high on the list. For example, the government tell us they will undertake a roll-out of upgraded emergency maritime towage operations at strategic locations around the Australian coastline. They have committed to consulting with the industry on that roll-out of the national emergency towage scheme, including identifying the locations of these operations.

No-one knows the Australian maritime environment better than the people who work in the maritime industry, including of course the maritime unions. But we know that this government is deeply hostile to the maritime unions. It is true at the moment that the chief object of its hostility—and we see this particularly from the Minister for Employment and Workplace Relations—is the CFMEU. But I am sure the minister has not forgotten his predecessor’s and this government’s dislike of the MUA. This is a pity, because I know there are many local leaders of the MUA, particularly in my home city of Melbourne. As far as I am concerned there is no-one who knows more or cares more about maritime safety than they do. If this government is serious about consultation it will swallow its ideological extremism and talk to the people who know the industry and Australia’s maritime environment the best.

The bill provides that the levy will apply uniformly to Australian and foreign flagged vessels. This is an important provision because the share of Australian owned and Australian crewed ships involved in Australia’s shipping industry has steadily declined under this government and so, therefore, has Australia’s ability to protect both maritime safety and the marine and coastal environment, which is increasingly out of our hands and in the hands of foreign shipowners, some of them reputable and some, as you know, Mr Deputy Speaker, less so. It would be interesting to know how many single-voyage permits this government has issued to foreign shipping companies. That is why I asked the Minister for Transport and Regional Services in February 2000 how many single-voyage permits had been issued to single-hulled vessels over the previous five years. Of course, Deputy Speaker, as you know, single-hulled vessels are older kinds of ships which are particularly polluting when they have accidents, because a single hull means that the materials they have inside come straight out. More modern ships are double hulled. The minister has told me, in response to this question:

This information is not captured electronically in processing Single Voyage Permits, and I am not prepared to direct the use of the considerable resources required to extract this information manually.

In other words, the then minister for transport and shipping, the former Deputy Prime Minister, did not know and he was not prepared to find out. In my view, this is a disgraceful state of affairs.

As part of its general policy of undercutting industrial standards and favouring some corporate friends, this government has allowed the least reputable shipping interests to take increasing control of Australia’s maritime trade. These companies, many operating under flags of convenience and therefore in some respects beyond the reach of the law, undercut Australian vessels by paying extremely low wages to their crews, many of them recruited in countries much poorer than Australia. These crews often operate in conditions which would be outlawed in Australia now and in fact would have been outlawed in Australia a century ago, thanks to the actions of Australian trade unions. These companies frequently default, even on

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the wages they agree to pay, leaving their crews stranded—as we saw recently in Adelaide, where a Filipino crew was left with no money and no redress.

The relevant point in relation to this bill is that these cut-rate shipping owners operating in Australian waters, with little regard for the environment or other standards, are an ongoing concern to this parliament. So while the government, on the one hand, is bringing this bill in with the aim of strengthening maritime safety and protecting our environment, its other policies are working in the opposite direction, making it more likely that sooner or later one of these shonky shippers—say, a single-hulled older ship from one of these flags of convenience countries—will be responsible for a major industrial accident in one of our busy ports or for a major environmental disaster along our coasts.

I want to turn to another aspect of this bill, one that was mentioned by the honourable member for Oxley and also recently by the Leader of the Opposition. This is a national security issue. The sad fact is we live in an age of international terrorism. We know that, after the Bali and Jakarta bombing attacks, regional terrorist groups such as Jemaah Islamiah have made Australia a target. Australia has a long and vulnerable coastline and, as I have outlined, is heavily dependent upon the maritime trade. Few countries are more open to a maritime terrorist attack than Australia. It was therefore shocking to learn that last week an Antiguan flagged vessel with a predominantly Ukrainian crew carried 3,000 tonnes of ammonium nitrate between Newcastle and Gladstone.

I have talked about ammonium nitrate in this House before and I will go on doing so until I am satisfied that this threat has been seriously addressed. In fact, I think I was one of the first people to raise this matter in this House. Ammonium nitrate is a common fertiliser and I quite understand that farming interests need to have ready access to it, but in certain circumstances, such as the outbreak of fire on a cargo ship or if it is mixed with fuel oil, it is an explosive of devastating force. It was used by American neo-Nazi Timothy McVeigh to carry out the attack on the public service building in Oklahoma City which killed 168 people. We had two members of the government, the member for Flinders and the member for La Trobe, raise this issue in the newspapers, and perhaps there is some dissent in the government about whether the issue of ammonium nitrate has been properly handled or not. I am pleased to see that, because obviously members of the government place the security of Australians at a very high level, as does the opposition.

Ammonium nitrate does not have to fall into the hands of terrorists to be a threat to Australian lives. Let me relate to you, Mr Deputy Speaker, what happened in Texas in the Port of Galveston in April 1947. A French freighter, the Grandcamp, carrying 7,000 tonnes of ammonium nitrate for export to European farmers caught fire and exploded. Another ship moored alongside was also carrying ammonium nitrate and it exploded as well. The resulting explosion broke windows in Houston, 60 miles away. People felt the explosion in Louisiana, 250 kilometres away. In Texas City the blast and resulting fires destroyed most of the town. At least 581 people were killed and more than 5,000 were injured. It was the worst industrial disaster in American history. This is what the shipping of ammonium nitrate can lead to, and there have been a number of other explosions on ships and in ports caused in this way.

The government will reply, of course, that the ways in which ammonium nitrate is handled have changed greatly since 1947 and that Australia has strict regulations which—if observed—make a disaster impossible in Australia. Theoretically I suppose that is true, but the
revelation last week that ammonium nitrate is being shipped along the Australian coast by cut-rate shipping companies under flags of convenience makes a mockery of such claims. How can the government regulate the safety procedures of a ship registered in Antigua whose real origins and ownership are unknown—probably there is some shonky shipowner in the Middle East—which is crewed by underpaid Ukrainians who have no knowledge of what they are carrying or how to prevent an industrial catastrophe? Clearly they cannot, and it just shows the lowest common dollar value foolishness that underlies the entire extremist ideology of this government. There should be Australian crews who have some knowledge of safety managing the Australian coastal trade, not the kind of ship that I have just outlined, carrying ammonium nitrate.

This situation is made even more urgent by the security environment in which Australia finds itself now. It would not be very difficult for Jemaah Islamiah or some other group to take control of one of these foreign owned and foreign crewed ships, full of ammonium nitrate or some other dangerous cargo, and make use of it in an attack on an Australian port. After September 11, Madrid and London, is there anyone prepared to say that this is impossible? I have great confidence in our intelligence services and police preventing an attack on Australians. I believe—and it is a well-informed belief—that they have been very effective in preventing the infiltration of terrorist cells into Australia. But their work is made more difficult by a government which is so keen to please some of its friends in the stevedoring and shipping industries that it fails to take elementary precautions such as banning the carriage of ammonium nitrate by ships operating under flags of convenience.

The minister has advised me that the Australian Customs Service records the identity of all crews entering Australia from a port overseas and that it maintains these records on its database. But, as we have seen in recent times, this provides no real guarantee that the people intent on carrying out a terrorist attack will not succeed in getting themselves onto a freighter. None of the September 11 terrorists showed up on the databases of US security services when they entered the US, and they walked onto airliners on 11 September with no difficulty. Does the government really claim that it can investigate the background of every crew member of every foreign flagged ship that enters Australian waters? If it does make this claim, I for one am not persuaded.

Earlier this year I asked the minister a detailed question about the shipping of ammonium nitrate in Australian waters. He advised me of the measures which the government had taken to regulate this, including on foreign flagged vessels. Of course I do not assert that nothing has been done to prevent the possibility of an ammonium nitrate explosion. In 2003, with bipartisan support, the parliament passed the Maritime Transport and Offshore Facilities Security Act, under which every ship carrying ammonium nitrate in Australian waters is subject to a regulatory regime and is required to meet the requirements of the International Maritime Organisation’s international maritime dangerous goods code and the code of safe practice for solid bulk cargoes. In addition, all ships seeking to enter an Australian port are subject to Australia’s system of port state control. Under this system Australia, as a port state, undertakes risk assessments and can impose, when required, measures to ensure the ship meets Australia’s requirements with respect to a range of matters including safety and security.

I do not dispute any of that. But the minister also told me in an answer to a question last year that since 2000 four cargoes of ammonium nitrate have been carried into Australian wa-
ters by ships registered in the Bahamas—a notorious haven for unscrupulous shipowners—as well as by a ship registered in Antigua that I mentioned earlier. Why does the government think that shipowners register their ships in places like Antigua, the Bahamas or Panama? It is to evade shipping regulations, safety standards and environmental laws which they know are imposed by legitimate shipping nations. Ships registered in such places are by definition unlikely to have any interest in complying with Australian law, whether to do with safety, labour standards, the environment or security. It may be that the security regime the minister outlined to me in his answer will ensure that most of the shippers will comply with the law, but its chances of effectively regulating all of them are greatly reduced when ships under flags of convenience are allowed to carry dangerous cargoes into Australian waters.

My view is that such vessels should not be allowed to carry ammonium nitrate into Australian ports. The minister told me that Australia’s regulatory framework for the carriage of ammonium nitrate, together with the preventative security framework for maritime transport, has been recognised as amongst the world’s best. I have to say that I do not draw much comfort from that. There are not many countries which use as much ammonium nitrate for agricultural purposes as Australia does and still fewer which transport so much of it by sea. I dare say there is no other country except the United States which combines a high exposure to the threat of terrorism with a high vulnerability to ammonium nitrate. I would like to be assured that our security regime is not just the world’s best—whatever that might mean—but as tight as it reasonably can be. So long as the government permits flag of convenience vessels manned by underpaid crews whose real origins cannot be investigated to carry ammonium nitrate into our ports, it cannot make that claim.

Mr MARTIN FERGUSON (Batman) (10.19 am)—I rise today to speak on the Protection of the Sea (Shipping Levy) Amendment Bill 2005. In doing so, I am pleased to see this bill before the House. In many ways, it is not unrelated to a notice of motion that I moved and which was last debated in the House on 7 March 2005 regarding the integral role that maritime salvage plays in the safety of Australian mariners. This bill represents a partial solution to the issues raised in that notice of motion, and I refer to part (2)(b) of that notice of motion which called on the government to:

… work with the industry and State Governments to develop a long-term plan to ensure that the Australian maritime sector is protected through adequate salvage capacity ...

It then went on, in part (2)(c) of the notice of motion, to request that the government:

… fund an interim solution to ensure that adequate salvage capacity exists at Australian ports—and on Australian seas. An emergency towage is part of that solution. As my colleagues have said in the course of this debate, the purpose of the bill is to allow for the extension of the protection of the sea levy to fund a national approach to maritime emergency towage, and I regard that as exceptionally important. It is in the nation’s best interests.

The levy will also allow for the continuation of activities in relation to the national plan to combat pollution of the sea by oil and other noxious and hazardous substances, which is exceptionally important to our marine environment and also to the tourism industry, which is so important in terms of jobs and export earnings for Australia.

The bill will also remove the maximum level of the protection of the sea levy, enabling it to be set by regulation. I consider this to be an important issue. It is important in terms of safety,
security, environmental protection and economic considerations. Unfortunately, whilst this bill is before the House today, my criticism is that it has taken the government so long to front up to its responsibilities in this regard.

In that context I draw the attention of the House to the fact that, in June last year, the House of Representatives Standing Committee on Transport and Regional Services—chaired by the member for Hinkler, Mr Neville—tabled a report on the issue of ship salvage. The notice of motion that I referred to—which was last debated in the House of Representatives on 7 March this year—flowed from the unanimous report of that committee.

That report, which was well prepared and well received not just in the maritime and tourism industries but in the Australian community generally, unfortunately reflected the ongoing incompetence of and mismanagement by the Howard government in taking years to address the findings of the inquiry. The inquiry was undertaken in response to a Productivity Commission report which recommended that provision of salvage services at Australian ports be opened up to market forces. In some ways this debate is a signal to the Productivity Commission to start to think about the implications of some of its recommendations in the future in terms of not only a hard-headed approach to economic considerations but also the potential impact of some of the recommendations on our maritime environment and, importantly, the tourism industry.

The record will show that evidence presented to the committee suggested that such an arrangement would be likely to lead to an overall reduction in salvage capability. That is exceptionally important, given the fact that we are a large island nation. I do not believe that Australia should be placed at such risk. We need modern and efficient salvage capabilities.

The committee recommended that a number of actions be taken by government. Firstly, it recommended that the Australian Maritime Safety Authority, in consultation with the industry, determine the most strategic placement for salvage capability at Australian ports. That is pretty fundamental—we work out strategically where we maximise our salvage capability. Secondly, it recommended that additional revenue be raised to support the continued provision of salvage and that the cost be met through a three-way split between the industry and the state and Commonwealth governments. I believe that it is a joint Commonwealth and state government responsibility to ensure that we have proper salvage capability around Australia. It is not just a Commonwealth responsibility. There is also an onus on our state governments and port instrumentalities to have proper regard in their tender process to ensure that there is not only salvage capability but salvage capability across the whole broad spectrum of maritime activities. There are very few companies in Australia that can actually maintain that salvage capacity on an Australia-wide basis. Thirdly, the committee recommended that the company which provides salvage capability be paid a subsidy to cover the costs incurred. I support our endeavours as a community to meet that requirement, because to walk away from that responsibility is to walk away from our national interests. Finally, the committee recommended that the three-way funding agreement be reviewed every three years.

I am pleased that the Australian Transport Council has now agreed to a national approach to emergency towage and that work is now under way to identify appropriate locations around the Australian coastline. Having said that, it is exceptionally important that the momentum be maintained and that the government makes sure that the agreement translates into action immediately. In that context, I remind the House that earlier this year a container ship, MSC
Denisse, was left drifting near Christmas Island after engine trouble. Fortunately for Australia, two Navy frigates were in the area and able to go to the aid of the ship whilst salvage vessels were dispatched from Western Australia. Imagine the consequences to Christmas Island and the marine environment, not to mention the safety of the crew, if no assistance had been available to that vessel. We may well have found ourselves in the situation of having to rely on our nearest neighbour, Indonesia, for assistance.

The worldwide shipping task, as we appreciate, is growing at an exponential rate. In actual fact, there is at the moment a shortage of available shipping, which is placing additional costs on industry. We as a world are faced today with one of the most rapid expansions of economic activity that has occurred in world history. Just think about what is occurring in China and, potentially, what will occur in India in the immediate future. That expansion effectively means that we as a global community can expect more and more ships to be plying Australian waters in the course of international trade. The truth is that at the moment we cannot dig up enough iron ore and coal to supply the needs of China and other countries as immediately as they would desire. This is because of a lack of shipping capacity in the world at the moment. So, as we actually expand our export capacity, we are going to have more and more ships plying our waters, coupled with the fact that we are going to move into huge exports of gas in the foreseeable future to the Chinese market.

It is an irony that worldwide improvements to ship safety and quality have also, correctly, seen the demand for salvage services decline over recent years. This is something that we should be grateful for but not complacent about. One shipping disaster could cost the Australian economy much more than the cost of subsidising shipping capability in key locations around our vast coastline. That is why the opposition actually argues that this investment by government, in association with industry, is an investment in our future. I suppose it is akin to the fact that industry should start to front up to the fact that investment in training of its workforce is actually an investment in its future rather than a cost to industry that disadvantages industry from a cost point of view.

I want to raise some other important issues today which I do not believe the government is giving sufficient attention to. They go to Australia’s maritime security, which was also raised in today’s debate by the member for Melbourne Ports. Perhaps the minister can respond to some of these issues in his reply to the debate this morning. I specifically refer to what we as the opposition believe is the failure of the government to provide an effective maritime security regime and the risks specifically associated with flag of convenience vessels to carry ammonium nitrate around the Australian coast. I was amazed to recently read in rural newspapers a proposal by the new Minister for Agriculture, Fisheries and Forestry to actually weaken the existing regulations concerning the sale and use of ammonium nitrate in Australia. It is a source used by terrorists to maximise damage, as has been experienced by a number of countries, including the United States, in recent years.

We should also understand that part of this debate is a deliberate decision by the Howard government after March 1996 to open up much of the domestic shipping trade to foreign vessels through its abuse—dare I say absolute abuse—of cabotage provisions in the Navigation Act. In some ways, this might be new to the Minister for Transport and Regional Services. Perhaps a new broom can bring a new approach to actually accepting some responsibility by the Howard government for these issues.
I remind the House that these provisions require that Australian vessels only are to operate on our coast, but shippers can apply for permission to use another vessel if no suitable Australian ship is available. That effectively means that you can get a permit when there is no suitable ship available. That is pretty important because this is also about the employment and training of Australian seafarers. Under the Howard government, this system has been exploited by shippers. With absolute support from the department and the minister they are able to access cheap foreign vessels and avoid the use of Australian ships, to the detriment of Australian employment and economic activity. On that note, I also refer to the fact that a KPMG review of the government’s administration of coastal shipping licences and permits for foreign vessels found the system to be in a shambolic state. The review also found that one in six permits for foreign vessels were granted without a signed application and that inadequate financial controls mean that the government may be unaware of fraud, errors and other irregularities relating to permits.

In June last year COAG agreed to a regulatory regime for ammonium nitrate which is designed to ensure accountability at all stages of the ammonium nitrate supply chain. The regulations require vessel identification, details of quantity and location of arrival for the importation of ammonium nitrate. The regulation of ammonium nitrate carried on foreign vessels around the Australian coast is of little value because the permit system that controls these foreign ships is fundamentally flawed. The record will show that the Howard government is allowing huge volumes of ammonium nitrate to be carried on a regular basis around the Australian coast by flag of convenience vessels with foreign crews and with little or no security.

Let us go to the issue of these flag of convenience vessels. It is clear that the permit system that controls the operation of foreign flag of convenience ships is shambolic. This is important, and I hope the minister is going to start considering these issues. Flag of convenience ships are registered in tax havens such as Panama and Liberia, centres of terrorism activity. In addition our government, through its encouragement of the use of these vessels, is propping up tax evasion. These vessels are often subsidised by foreign governments and do not need to meet the same safety and environmental standards or working conditions as Australian vessels. So we are potentially encouraging terrorism activities, an undermining of our environmental standards and a weakening of training and employment opportunities in Australia, and we are permitting a loss of economic earnings for Australia.

I believe that, in many cases, it is almost impossible to trace the beneficial owners of flags of convenience ships, and perhaps the minister would like to comment on this issue this morning. Can the minister give a guarantee that the beneficial owners of these flag of convenience vessels can be traced by his department? In that context it has also been suggested—and this is a fundamental question on which I am looking to the minister for an answer this morning—that these ships could well be owned by terrorist groups or other criminal groups. If this government is serious about our fight against terrorism, the minister has to answer these questions this morning. Can he give the Australian community a guarantee in terms of the shipment of ammonium nitrate in Australia that none of the beneficial owners of these flags of convenience ships are terrorist or other criminal groups?

With respect to the foreign crewing of these ships in Australian waters, there is no intention or ability to bring these groups under the provisions of the maritime security act. In addition, there is little or no regulation of ships carrying high-consequence cargoes along the Australian coast.
coastline, either for domestic or for international purposes. By way of example, on the day that the maritime security bill was introduced into the Australian parliament in September 2003, a foreign ship thought to be operating under a single-voyage permit and carrying over 10,000 tonnes of ammonium nitrate as well as hundreds of tonnes of diesel was plying the Australian coastline. This ship had a crew totalling 20, made up of seven nationalities, including people from Indonesia, India, the Philippines, Ghana, Egypt, Turkey and the Maldives. Interestingly, some of those countries are potentially on the terrorism alert list, yet we had a ship carrying ammonium nitrate and diesel and plying the Australian coastline, crewed by people without proper border control permits, on the day that the Maritime Transport Security Bill was introduced into the parliament in September 2003.

Mr Danby—Was that 10,000 tonnes?

Mr MARTIN FERGUSON—Yes, 10,000 tonnes of ammonium nitrate—and the government dismisses this as a minor problem. Conversely, if dangerous goods such as ammonium nitrate are carried in bulk on land transport in Australia they are regulated under dangerous goods legislation. The government has initiated a review of the carriage of high consequence cargo but, unfortunately, this does not appear to extend to its carriage by foreign flags of convenience ships. That is a huge gap in our armoury in the fight against terrorism.

The department of transport revealed at Senate estimates hearings in May this year that in the period from 1 July 2004—when the maritime security regime came into effect—to 9 February this year, 10,800 tonnes of ammonium nitrate were carried on the Australian coastline by foreign ships operating under permits with foreign crews. I question whether the Australian government gave proper consideration to the background of these foreign crews on sensitive ships carrying ammonium nitrate, which in the ports of Sydney or Melbourne, for example, could do untold damage to the Australian community.

Australian authorities have no way of properly checking the bona fides of these foreign crews. We see the government focusing—perhaps rightfully, because I am not able to access government advice on the deportation of a young American, and nor should I—on problems with respect to an individual. But I suggest to the House today that there are others on foreign ships, foreign crews, who pose potentially more serious problems in terms of character and potential terrorism activities and proper regard is not being had to that by the Australian government.

I raise these issues because I have long been involved in the debate on transport security and, as the former shadow minister, I have also complimented the government on some of its endeavours on maritime and aviation security. But there are glaring holes that the minister has to deal with. Having said that—and I raise these criticisms in a proper way—I am pleased to see at least that the levy provided for in the bill applies uniformly to Australian and to foreign flagged vessels. That is a step forward. For a change, foreign vessels are going to have to start to pay their way.

Nevertheless, the Howard government has spent nine long years undermining the Australian shipping industry by promoting the cheapest foreign flagship vessels in the world to ply our coast without proper regard for their ownership or their crewing. Many of these ships operate well below the standards that we expect from our own local industry. These people are poorly treated and poorly paid. The ships themselves are poorly maintained and their environmental and safety standards are suboptimal.
This is consistent, unfortunately, with the philosophy of the Howard government not to set the standard for the rest of the world but to join the rest of the world in a retreat to the lowest common denominator, a race to the bottom. It is akin to their approach to industrial relations in Australia at the moment. This approach is un-Australian. It is wrong in terms of industrial relations, racial and cultural tolerance, health and education, and all those associated issues. Nevertheless, I welcome the bill as a step forward. I call on the government to implement it properly and expeditiously and also to respond to some of the serious issues raised by opposition speakers in the course of this debate. The issues go to the use of foreign vessels, whether or not proper consideration is given to the character of the crews of foreign vessels in terms of border protection, and why we continue to have a glaring hole in our fight against terrorism by allowing the carriage of ammonium nitrate around the Australian coastline. I commend the bill and the second reading amendment to the House.

Mr TRUSS (Wide Bay—Minister for Transport and Regional Services) (10.39 am)—Firstly, I thank the members who have contributed to this second reading debate on the Protection of the Sea (Shipping Levy) Amendment Bill 2005 and acknowledge, in spite of some of the rhetoric, that there seems to be unanimity that the bill should be supported. I thank the opposition for that support. Before I sum up on issues related to the bill, I should comment on what I think has been the main issue raised by opposition members—the carriage of ammonium nitrate around Australian ports. Frankly, some of the rhetoric we have heard clearly follows on the ill-fated visit of the Leader of the Opposition to Gladstone a few weeks ago and may have been more in place at a meeting of the Maritime Workers Union than somewhere where issues can be subjected to the light of the facts.

The clear reality is that every ship seeking to enter an Australian port, including ships carrying ammonium nitrate, is subject to a security risk assessment process. We have a range of options for addressing security concerns about ships, including ultimately denying access to our waters or our ports. It is simply wrong to claim, as some speakers have, that there are no security checks on foreign seafarers coming into Australia or on foreign flagged freight vessels. Before ships even arrive in the country the Office of Transport Security undertakes a complete risk assessment of every ship, its cargo and its crew—including checking all the relevant alert lists. Those vessels are then subject to immigration checks to verify the crew information at the first port of call. Any ship identified as posing a serious security threat—whether because of the crew, the cargo or other factors—is simply not allowed entry into Australia. It is also wrong to claim, as some speakers have, that there are no safety regulations for the shipping of ammonium nitrate. Ships carrying this substance in Australian waters are subject to the safety regulations of the Navigation Act 1912.

I briefly mention that ensuring that Australian shippers have access to internationally competitive shipping in the international trades is a priority for the government. Our shipping policy is a blend of providing shippers with access to competitive shipping to support the needs of exporters and a level of preference for the local shipping industry in the coastal trades. We are committed to enforcing higher standards of safety, security and environmental protection. It also needs to be pointed out that there is no evidence that a foreign flagged vessel taking cargo from one Australian port to another poses a greater threat than a foreign flagged vessel arriving directly from overseas. In fact, the risk would seem to be even lower. All ships, as I mentioned earlier, are required to report the details of their foreign crew at least 48 hours be-
fore arriving in Australia. Crew members of security or immigration concern would be restricted on board the vessel or detained onshore. Foreign seafarers are not given unmonitored access to maritime security zones. This is a requirement in relevant ports’ security plans, and Customs officers undertake immigration checks on the arrival of vessels.

In relation to the specific references to a vessel carrying 10,000 tonnes of ammonium nitrate between a couple of Australian ports, I think members opposite need to think about what the alternatives would be to using shipping to transport a commodity of this nature. To move 10,000 tonnes between two Australian ports would require around 500 semitrailers. Would you prefer one ship or 500 semitrailers up and down our roads carrying a commodity like ammonium nitrate? Clearly, ammonium nitrate does have to be carried on the road and rail networks—certainly not close to the ports—because it is used largely in the mining and agricultural industries. So there is a transport task. It is a high-risk product and, for that reason, high levels of security have to be taken. But from an overall perspective, looking at the safest way to move this commodity around the countryside, as far as we are able, shipping offers a very good alternative.

Can I also comment on remarks made by the member for Batman—who has now left the room—in relation to the audit that was undertaken of the coastal trading permit system in 2004. This was not some kind of process enforced upon the government because of allegations of inappropriate behaviour. It was in fact commissioned by the Department of Transport and Regional Services itself to help in the establishment of the new 24-hour operation centre within the department to effectively deal with the coastal trading permit system. The report was actually done in 2004, and it seems that it was about 12 months later that the opposition found out about it and tried to make something of the findings, all of which had been addressed. I do not think any of them were unexpected, and all had been addressed well and truly before the opposition sought to make an issue of this.

The reality is that it is a dead issue. Identifying ways to improve the administration of the system was exactly what the department was looking for when it commissioned the review, and action has been taken to address the matters raised in the audit. We now have coastal trading permits being issued by the same group of people who undertake maritime security risk assessment and compliance checks for ships visiting Australian ports. Ships with coastal permits comply with the requirements of the maritime security legislation and regulations, and these new arrangements that are being put in place help to ensure that there is greater scrutiny of the matters associated with the issue of these permits.

Finally, I turn to the bill at hand. As a result of a number of recent high-profile ship sourced pollution incidents overseas, the general public the world over has become more aware of the serious impacts a maritime incident can have on the environment and coastal communities and businesses. The costs of such incidents can and have run into hundreds of millions of dollars. For Australia, any such accident would be particularly serious because of the pristine nature of much of our marine environment. The existence of these risks is not something we can ignore or avoid. The government are constantly assessing the preventative measures we have in place and what more we can do to minimise or eliminate such risks. Shipping carries over 99 per cent of our international trade. It is vital that we maintain this lifeblood of our economy while also ensuring that we minimise the risks of one-off catastrophic incidents near our coast.
Ever since the release of the Neville committee report in 2004, we have been aware that our emergency towage response capability is being affected by changes in the salvage and port towage industry, creating the potential for significant gaps in our ability to respond to a maritime emergency to prevent major pollution from occurring. Let me say that I agree with the honourable member for Batman when he states that this is not just a Commonwealth responsibility; it is an issue where the states also have a key role to play, along with industry. Unfortunately, the states were not willing to make a financial contribution to the cost of this important task, so as a fall-back measure the Australian government and our state and territory counterparts agreed in principle that there needed to be measures to ensure that Australia’s emergency towage capability was adequate and that the funding to achieve this goal should be recovered from the shipping industry by a single national levy.

This bill itself does not alter the levy rates. The actual rate of levy required can only be determined after a final decision on the national approach is taken. That decision, for the information of the honourable member for Batman, is expected later this year. Rather, this bill proposes a simple amendment. It removes the provision of a legislative cap on the levy rate in the Protection of the Sea (Shipping Levy) Act 1981. The removal will allow appropriate levy rates to be prescribed directly by the Protection of the Sea (Shipping Levy) Regulations, sufficient to meet the funding requirements of the emergency towage program as well as to provide for the recovery of any pollution clean-up costs that cannot be recovered directly from the relevant shipowner. I have already indicated, during a visit to North Queensland, that there will be tenders called soon for the provision of a suitable vessel in North Queensland to be available to undertake this important work, should an incident occur.

The regulation-making process maintains sufficient safeguards to ensure that the levies paid by industry meet only the costs incurred for the emergency towage program and the national plan to combat pollution of the sea by oil and other hazardous and noxious substances. Any levy regulations will be subject to scrutiny and disallowance by the parliament. I am confident that these measures will be of great benefit to the Australian public, especially to the coastal communities, and will help us deal with any incident which might occur in the future.

I thank members for their support of the legislation and commend it to the Main Committee.

The DEPUTY SPEAKER (Mr McMullan)—The original question was that this bill be now read a second time. To this the honourable member for Oxley has moved as an amendment that all words after ‘That’ be omitted with a view to substituting other words. The immediate question now is that the words proposed to be omitted stand part of the question.

Question agreed to.

Original question agreed to.

Bill read a second time.

Ordered that this bill be reported to the House without amendment.
Ms ROXON (Gellibrand) (10.51 am)—I am grateful for the opportunity to speak again on the report of the Standing Committee on Legal and Constitutional Affairs on the exposure draft of the Family Law Amendment (Shared Parental Responsibility) Bill 2005. I flag to those who are listening to or reading this speech at a later time that I have had an opportunity to write in detail a dissenting report on the decisions of the committee and, although I would like to discuss a number of issues that I have raised, I will not be going through each and every recommendation that I have referred to in my dissenting report. However, let me say that I think that the committee did a very good job in a very short time in dealing with a complex bill which is going to bring about significant change in the family law area. Although I have strong concerns about a number of aspects of both the bill and the committee’s report, there are large numbers of provisions in the bill which were supported and recommended by the committee that I agree with and think will be positive changes to the way family law operates. In particular, I agree with the proposal that the children’s cases pilot, which is currently being undertaken in Family Court registries in New South Wales, should be extended to the rest of the community.

I think everybody shares the view that the incredibly adversarial processes of the court are not always in the best interests of children and if there are new and better ways to run these cases that will result in less conflict then that will be of benefit to everybody. I have made those general comments and I have expressed in my dissenting report a number of concerns which I briefly summarise as being focused on violence and the way our current system handles allegations of violence in dealing with family law matters. The second area that I am increasingly concerned about is the concept of shared parenting and the way that that is proposed to be introduced into the law.

Finally, I also have a concern that there are significant risks that a number of the proposals put forward by the government—which have been supported and sometimes amended by the recommendations of the committee—will actually increase and not decrease reliance on litigation. I think everybody in the House, across parties, is trying to make this an area that is less litigious rather than more litigious. However, we may have got ourselves into a position where, although that is the aim and ambition of many on both sides of the House, a number of the changes will not result in that outcome.

I want to put on the record that I do not intend, today, to recanvass the issue of family relationship centres and the government’s proposals for handling that. I notice that the member for Wakefield is here and he will obviously play a role in the committee that the government has set up to oversee this. I have expressed my reservations and concern that this is politicising the process in a way that will be unhelpful for the community—and in the longer term for the government as well. I intend to focus on the provisions of the report and particularly the issue of shared parenting, because I have not had an opportunity to do that in the detail that I can go into today.
I would first like to focus on the issue of violence. I have expressed a concern that the cumulative impact of the changes in the bill and a number of the committee’s recommendations are not going to provide an improvement in the way that we handle circumstances and families that come before the court where violence is at issue. I am particularly concerned that a number of issues have not been dealt with at all by the bill or by the committee. Everyone knows of a problem within the system—the length of time that it takes for these matters to be dealt with, the way allegations are investigated, the way we ensure that children’s interests are put first and that families are not at risk if there are circumstances of violence in the family.

I used as an example an issue on which I know the member for Wentworth has expressed disagreement with me. The committee looked at whether or not the definition of family violence should be altered—the existing definition has been there for a long time and is well understood and accepted by almost everybody—to deal with an apprehension of violence. The committee made a recommendation that a reasonable apprehension of violence would be a more appropriate test. As I have explained in my dissenting report, that is something that, superficially, sounds like it would be an improvement. We regard ourselves as reasonable people. We think that the test of reasonableness is a fair one. I know the member for Wentworth has said that he thinks that would be applied by a court in any case. In fact, that is not what happens in the family law area. There is a reason that the test is apprehension of violence rather than whether it is a reasonable apprehension, because it focuses on the fear that a person might have and that fear, whether reasonable or not, is one that can have a very real impact on people.

I express my concerns not to disagree with the committee’s recommendation but to ask that, before the government make a change of this order, we actually get some experts in the field to give us advice about what such a change would mean. I know that the Attorney’s office has now been consulting with people in the community about this and other matters and has received from the Women’s Legal Service some comments about this particular recommendation, and that has been copied to me. But I trust and hope that the government is seeking much broader input on this. This is just one example of my concerns of recommendations which are well intended and sound sensible but have been adopted under a very tight time frame with very little proper advice and could actually have a damaging impact.

In their submission to the committee, the Women’s Legal Service raised a concern that:

There is a tendency to see family violence as a series of incidents, when in fact it is a pattern of behaviour that involves the use of violence as a tool of power and control.

The quote continues:

Victims of family violence learn to read the perpetrator of violence and know what is coming next. It may appear to an outsider that a specific incident should not reasonably cause the victim to fear for their safety, but her experience tells her otherwise.

These are very real issues that we have to take account of, and, if we are going to change an existing provision, we need to make sure that it is an improvement, not something that risks actually making the system less sensitive to circumstances of violence. The Women’s Legal Service go on to say:

Tests of ‘reasonableness’ have been demonstrated to operate in gendered ways, i.e. although expressed in gender neutral language, they often are interpreted as what the ‘reasonable man’ might think or, in this case, what might make him fear or be apprehensive about his safety.
Obviously the unfortunate reality of our community is that we need to look at making sure that women and children as well as men are safe in their family circumstances. They continue: Including a reasonable test would send a very unfortunate message to the community about the use of violence and experience of violence—that is, it is only a problem if it causes someone to ‘reasonably’ be in fear.

I think this is interesting and of course true as a quote:

Being a victim of family violence is not a reasonable situation and it should not be the victim who is required to respond reasonably to the violence.

I put those quotes on the record because I have a number of specific recommendations and concerns that I have raised in the area of violence.

The other issue that I particularly want to focus on is shared parenting. I would like to do this because I think that we talk a lot in this House about how strong communities grow out of strong families, whatever shape or size those families might be. As a society we need to look more closely at how we can support families in the face of social, economic and demographic changes, and this means we need to look at how we can support both intact families and those who have gone through separation. This is the context that I think has been lacking from the debate about shared parenting and the debate on the bill that was the topic of the committee’s report.

The major changes of the past decades—the introduction of no-fault divorce, better support for parents, less stigma being attached to children born out of wedlock, women being permitted to continue to work in the Public Service after marriage and the rise of de facto relationships—came about largely as a result of feminism but also, I think, as the result of a less strict or religious approach to life and a growing tolerance within our community for a range of family ideals and structures. With this has come the increased participation of women in the work force and, although more slowly, the welcome and increased involvement of many more fathers in the care and development of their children. I have a vested interest in this. I am pleased that Michael has embraced wholeheartedly the idea of fatherhood, because in this job the care of our child, Rebecca, would be very much more difficult if he had not.

The Sex Discrimination Commissioner has recently released a paper on the way that men and women share—or do not share—work and family responsibilities within the family. It is interesting that, with all the changes over the decades, the idea of shared parenting is getting currency. It has such a nice ring to it and it is such a positive-sounding idea. The natural reaction is to say that it is a good idea that all parents share the care of their children. But what I think is unfortunate—and I wish we could have a better debate on it—is that the concept is almost only ever raised in the context of family breakdown. It is a concept that has been promoted primarily by fathers who are seeking more involvement with their children after separation. It is a very important area and it is often a very fraught issue for these fathers.

But I think the problem is even bigger. We as a community are not talking enough about shared parenting when families are still intact. We need to start talking about that. We need to start talking about shared parenting not only for those who have separated but perhaps also as a way to avoid separation. We need to look at supports for, and barriers to, shared parenting that go way beyond family law and the Family Court. I have used the recent example of the Industrial Relations Commission, but I think we can look at a whole range of other examples. The Industrial Relations Commission made access to maternity leave, paternity leave and
part-time work easier for workers and parents after the birth of a child. This was a great mile-
stone in this debate. We should see these changes and ideas as part of the shared parenting
debate and not think of them as being isolated to family law. We need to make more of these
ideas and continue to make workplaces and working arrangements more family friendly. We
need to be prepared to tackle head-on the barriers that face families when both parents try to
work part time or the social impact if a dad takes time off to care for a sick child or even a
break from the work force, as women have been doing for so many years.

The member for Wentworth might even take on board the discussion about how family tax
benefit works—there are payments if one parent stays home full time, but you cannot get
those same benefits if both parents work part time. These sorts of things are part of a much
broader debate that we need to have. They are barriers to people making a decision within
their relationship that they will share equally or substantially in the care of their children. This
issue becomes stark and contentious when we talk about how a family separates. This is
where the committee’s report comes in. We were looking at changes to the family law system.
Many of the changes are constructive, seeking to make the process of separation less adver-
sarial and trying to make sure that the best interests of the children are put first. I believe,
though, that other changes that seek to apply shared parenting to many families where there is
very high conflict, and sometimes even violence, are difficult. The trend is that shared parent-
ing is only being discussed as a family law matter and a family breakdown matter, when we
should be looking at it as a much broader idea. We would then have a sense of balance in the
debate, which inevitably we have not had so far. The bill and the committee’s recommenda-
tions do not indicate the broader debate and the balance that we should have in this system.

It is an unsettling trend that the changes focus very much on the rights and demands of
non-resident parents, and currently that is mostly the fathers, and leave many of the responsi-
bilities and burdens on the resident parents—in most cases, the mothers. The problem, as I see
it, is that we focus on what tests can be applied in family law matters and not on changes
which could be brought about more broadly in the community that might have a positive im-
pact on the ability of parents to truly share in the care of their children, even after separation.

It is essential that we get these changes to the family law system right, and to do this we
need to hear a whole range of views and opinions from the wider community. What difficul-
ties do people face within the family law system? That is something that we have heard much
about through a number of different reports, including the one that has just been presented.
But what about other questions that should be asked more broadly in the community such as:
what pressures are making it harder for people to maintain a work and family balance? All of
these issues impact on the family unit. They impact on the way people participate in the wider
community, and for some they have such a devastating impact that they lead to poverty,
homelessness and much more.

Unless these wider issues are debated, I fear that the real concept of shared parenting will
not develop and will remain a blind spot in the community, let alone in the law. That is why
these changes to family law need to encourage parents to put aside their differences in the best
interests of their children. I see it as my job as a parliamentarian to help promote this idea
more broadly in the community and to make sure that the legislation will help people look at
the options of shared parenting.
I hope that, by touching on some of these issues, not just in the parliament but in other forums such as at Lions Clubs and elsewhere we are invited to speak, we might start a much wider conversation in the community about some of the challenges we face in getting truly shared parenting as an idea in the community. *(Time expired)*

Mr Turnbull (Wentworth) (11.06 am)—Leo Tolstoy, in the first chapter of *Anna Karenina*, said, ‘All happy families are the same, but each unhappy family is unhappy in its own way.’ That is a very good insight that I think hung heavily on all the members of the Standing Committee on Legal and Constitutional Affairs as we considered the reference from the Attorney-General that produced the report on the exposure draft of the Family Law Amendment (Shared Parental Responsibility) Bill 2005.

Divorce or family breakdown is a tragic business. Everybody sees divorce through the prism of their own experience. And they see it through the prism of their experience whether they have been divorced, are the child of divorced parents or, indeed, have had a perfectly happy family—a family that has not suffered breakdown. There is a tendency for people in that situation—too often, I think—to be a little too quick to judge others whose family relationships do break up.

This is an area that needs the utmost compassion, understanding and care. It is probably the most emotional subject matter of any act of parliament. It is an act of parliament that affects people very differently to most other acts of parliament. The Family Law Act is a very large and complex piece of legislation. So, of course, is the income tax legislation—it is larger and more complex, one might say—but people deal with the income tax legislation through their advisers; they have no choice. The Family Law Act is a piece of legislation that citizens deal with directly and read themselves. And it is very important that it be a piece of legislation that is comprehensible and accessible. In many respects, the Family Law Act does not meet those requirements, and I think that is broadly recognised.

There is always a tendency when legislation is amended to just add additional sections in the parts of the act where that subject matter was originally dealt with. That probably makes it easier for the practitioners. But, for somebody in an emotional situation of a family breakdown going to the law of Australia that deals with their rights and duties, to confront this complex document is really not good enough.

Recommendation 49 of the report was that resources be allocated to enable a rewriting of the Family Law Act 1975 as soon as possible. That would be a very valuable step. Of all the acts of this parliament, this is one that should be comprehensible and accessible to the people. It should be expressed in clear language and not in legalese.

The major focus of the *Every picture tells a story* report—the report of the Standing Committee on Family and Community Affairs that the member for Riverina so ably chaired and upon which the member for Chifley so ably served—was for a presumption of shared parenting. That emerged in the legislation as a presumption of ‘joint parental responsibility’. That is in the new section 61DA. Probably the most noted recommendation of this committee, which as I said earlier was a committee that worked very well and was very ably chaired by the member for Fisher, was to change that language from ‘joint parental responsibility’ to ‘equal shared parental responsibility’. A lawyer—our committee is naturally full of lawyers—could say the two phrases basically mean the same thing, but it is a very different use of language for people who do not have a legal background. Equal shared responsibility means equal
shared parental responsibility—it is very clear. What does joint parental responsibility mean? That is a more debatable issue. That was a very valuable recommendation and one that I commend strongly to the government.

The member for Gellibrand said that we as a community and as a parliament should be talking about shared parental responsibility not just in the context of divorced and separated parents. I agree with her. I think there is an overemphasis in our allocation of resources in Australia to the breakdown of families versus the creation and the maintenance of families. We spend billions of dollars dealing with the consequences of family breakdown and the failure of marriage. I am not suggesting we should spend a penny less, but what do we spend promoting the institution of marriage? We know that our society is stronger if families are stronger. We know that children are best brought up in a home with both their parents. You do not have to have a particular moral, ethical or religious point of view—that is fact. Everyone from the most humanist to the most religious will agree on that. What are we doing to promote families? What are we doing to promote marriage? The answer, I am afraid to say, is that we are not doing enough. It is not easy. The member for Gellibrand said we should be promoting equal shared responsibility in the home so that husbands and wives—fathers and mothers—share the responsibility of looking after their children. That is a very worthy ideal, but it is hard to see how it can be legislated for. You cannot pass a law that says that husbands have to do the washing-up.

Ms Hoare—That’s a shame.

Mr Turnbull—Members opposite are thinking that might be a very good innovation, but it would have practical enforcement difficulties, notwithstanding that it would no doubt be a very well intentioned move. That is a vital issue, I believe, for us to reflect upon as we note this report. We are dealing with trying to ensure that the best interests of children are protected in the context of a marriage that has broken down. We have recommended family relationships centres—a very worthwhile recommendation, which the government is taking up—so that there will be a compulsory effort at conciliation before it gets into court. Obviously, it is better if the parties can agree on arrangements without having to litigate. We all understand that, and I am very hopeful that this will work well, if commonsense can prevail.

Divorce is an occasion when commonsense is not always readily available; there is a high degree of emotion. What are we doing to encourage and promote the idea that people would be better off working on their marriages and staying married? It is not easy to see how the parliament can legislate for that, but it is something we need to turn our minds to. Preserving marriage is as important—many would say more important—than dealing humanely, compassionately and practically with the consequences of marriages that have broken down.

I want to deal now with the comments that the member for Gellibrand made about violence. In particular, the effect of the recommendation is that the definition of family violence, which is found in section 60D, would read:

Family violence means conduct, whether actual or threatened, by a person towards, or towards the property of, a member of the person’s family that causes that or any other member of the person’s family reasonably to fear for, or to be reasonably apprehensive about, his or her personal well being or safety.

Family violence is an enormously important issue in families, be they intact or separated, but it is also a very important legal concept in this legislation. For example, the presumption of
joint parental responsibility in section 61DA, which is the key recommendation of the whole inquiry—the keystone of that edifice—does not apply if there are reasonable grounds to believe a parent of the child or a person who lives with the parent of the child has engaged in abuse of the child or family violence. So the whole presumption can be swept away if there is family violence.

Equally, in section 60I, which is another vital part of the recommendations, the compulsory visitation to the family relationship centre—the compulsory conciliation—does not apply if there has been, among other things, family violence. Family violence can exclude the operation of two of the key recommendations of the whole inquiry. So it is perfectly reasonable, if I may use that term, to look at the definition of family violence in the light of the many submissions that we received expressing concern about allegations of family violence being made for tactical reasons. We all understand that many allegations made in the Family Court are made for tactical reasons—as in every court; the Family Court is not unique. But this is a very important concept. It is important for this parliament to keep faith with the whole of the community and for the law to have integrity and credibility with the whole of the community.

With respect to the member for Gellibrand—and I note she was the only member of the committee who dissented on this point—I do not regard it as being unusual or rash for the committee to recommend that a fear or apprehension of violence has to be one that is reasonably held. She stated in her remarks earlier that I had commented on her dissent unfavourably, and I would comment on it unfavourably again today. I believe that any judge acting responsibly would read into that definition of family violence an element of reasonableness. It would be unacceptable to deprive someone of the presumption of equal shared parental responsibility or to enable somebody to avoid going to the family relationships centre because a party had a completely unreasonable and unfounded apprehension of violence. With respect to the member for Gellibrand, I think the reason she was a lone voice on this point was that she was mistaken.

Finally, I wish to speak about recommendation 4. This again is a very important recommendation. This recommends that section 65DAA, which currently requires—and in the current proposed drafting requires—in making a parenting order that the court considers that a child spend substantial time with each of the parents, instead provide that the court must consider that the child spend equal time with the parents. This should always be the starting point. Substantial time, as we heard, could mean anything from 50 per cent to five per cent. It is a concept that means anything—as I think one of the witnesses said, ‘Anything which is not insubstantial.’ (Time expired)

Mr KERR (Denison) (11.21 am)—Firstly, may I join the member for Wentworth in indicating that the work of the Standing Committee on Legal and Constitutional Affairs was intense and drew on a considerable amount of goodwill from all members, and the report, I believe, is a substantial one. With respect to the member for Wentworth—a very fine legal mind, sadly wasted in industry, in circumstances where no doubt he now reflects on the fact that he needs a legal adviser to do his tax affairs and cannot rely on the Tax Pack as us lesser mortals are still capable of doing, but nonetheless his economic reward for that has been substantial and his parliamentary career, no doubt, will not be diminished by the fact he no longer practices in the law—his contributions were very valuable. However, I do not share his criticism of the member for Gellibrand. I think the member for Gellibrand approached the issues in
relation to this inquiry with a slightly different philosophical starting point but I think she ap-
plied herself extraordinarily earnestly to the task that she undertook.

In the note presented by the three Labor members in the report on the exposure draft of the
Family Law Amendment (Shared Parental Responsibility) Bill 2005 we do draw parliament’s
attention to the need to give some weight to issues that were not specifically within the focus
of this inquiry—that is, the fact that we look almost exclusively at the responsibility of per-
sons who have care and custody of children but we do not look at all at what would be a re-
ciprocal obligation of persons who would wish to walk away from those responsibilities. The
quite proper focus of this committee was to try and balance issues and to find a framework
where essentially both parties are seeking to share responsibility for their child in a practical
working way. One of the things that we did not look at is the very distressing circumstance,
that all too often arises, where one parent is left with the whole burden of the responsibil-
ity of a child and the other partner walks away without wishing to exercise any responsibility. We
do not have mechanisms in the Family Law Act to address that indifference to the responsibil-
ity of being a parent.

The weight of these recommendations should not be dismissed, but the member for Gelli-
brand throws a salutary amount of cold water on our enthusiasm in that regard by pointing out
that it is not always the case that separating parents are each, for proper reasons, seeking to
maximise their access to their children. On some occasions some parents are actually actively
seeking to avoid their responsibilities to the greatest possible degree. We do not go there in
this report and that is a matter she draws attention to.

However, I join with the member for Wentworth in saying that, on balance, I do agree with
the way in which we have drafted the definition of ‘violence’ in relation to these matters, be-
cause it is a triggering event, to the exclusion of the normal path that will be required to be
followed through the family relationship centres. We gave a lot of thought to how this trigger
event should be designed. We have made recommendations that differ from the proposals that
were contained in the bill. The bill contained provisions that would require an adjudication of
whether or not violence had occurred before a matter would go into the stream and automati-
cally go to the Family Court. In the minds of all of the members of the committee, that led to
the prospect that that would itself create a trial before a trial, because no person against whom
an accusation of violence is made who was seriously contesting an arrangement for care and
control of the child could leave that matter uncontested. That would mean that the resources
of the court would be deployed at that very early stage to determine the validity of those mat-
ters—often with insufficient materials and without the capacity to examine the matter fully—
where a finding made in relation to those matters might colour the whole subsequent proceed-
ings. Rather than that, we recommended in paragraph 3.50 of the report:

The Committee poses an alternative model for the operation of the exception. The Committee proposes
that an exception to attendance at compulsory dispute resolution on the basis of family violence or
abuse be available to an applicant upon the provision by the applicant of a sworn statement that the dis-
pute is not suitable for family dispute resolution on the basis of family violence or abuse.

The concomitant side of that, given that there would not be a preliminary determination, is
that we recommended that there be serious consequences for making a false declaration of
that kind. We made subsequent recommendations that, where a false allegation of abuse or
family violence has been made knowingly, that that has very serious consequences. We think
that that balance will lead to a much more effective resolution of the way in which these extraordinarily difficult matters are normally streamed through the family relationship centres, where there are proper bases for an allegation of family violence or abuse to be made directly to the court.

Let us not pretend that the recommendations that we have proposed, the amendments, the bill—or any other structure that could be proposed—is the end point of debate and discussion of these matters. There is no perfect solution that could commend itself to members of parliament or the community that is capable of finding ideal solutions to these highly contested matters. There is no model that will satisfy the range of different interests that legitimately impinge on a family in distress. People are often highly emotional, people are sometimes vindictive, people sometimes act unreasonably and yet are very much driven at depth often by the most noble of motives: the love for their child. Yet they manifest that from time to time in the most ignoble of ways. So there is not ever going to be a perfect set of recommendations.

In looking at this legislation we had only a relatively short span of time, and we regretted that. Nonetheless there was an opportunity to have a wide range of public submissions considered by the committee, and the committee itself worked very hard to try to find practical and thoughtful recommendations to improve this legislation. Broadly, I think the community should be very pleased with the degree to which their representatives in this House worked, largely in a bipartisan way. I would think that such divisions as existed from time to time in this debate rarely reflected any partisan division; indeed, I think all of us joined at the end of the proceedings in congratulating the chair, Mr Peter Slipper, for the way in which he had conducted the inquiry.

I want to draw attention to a couple of matters which have been less public in the debate relating to the recommendations, because inevitably in the presentation of this report only a few aspects will get significant public attention. One of the important side issues that came up in the discussions in our committee relates to circumstances where counselling or advice is given to persons in family relationship centres. There are provisions in the legislation which generally provide that, where a person is going to receive assistance through counselling or similar processes, what they say properly remains confidential between them and the counsellor. But that is not an absolute confidentiality, and it never has been. Yet the provisions related to that issue are headed that disclosure is not permitted, potentially giving a very misleading appreciation by those who are subject to counselling, and by counsellors themselves if they do not read the detail of the legislation, that disclosure would never be permitted or allowed.

At recommendation 27, paragraph 3.135, the committee recommends that the measures be redrafted and divided into circumstances where disclosure would be required and those where it would be at the discretion of a practitioner, and of course the balance would be prohibited. So you would have three categories of disclosure: the routine matters that pass between counsellors and persons subject to counselling, which would never be disclosed to anybody; and serious matters which relate to matters ‘which may prevent or lessen a serious or imminent threat to the life or health of a person, or where the disclosure relates to the commission, or may prevent the likely commission, of an offence involving serious harm to a child’ would be obligatory. That brings it into line with the kind of mandatory reporting provisions that now apply in the health system, which I think are fair to apply in this area.
It will of course be seen by some as removing some of the discretionary elements, but I think the community at large would think that a counsellor who becomes aware of a matter which, if it were disclosed, might prevent or lessen a serious or imminent threat to the life or health of somebody, or which relates to the commission or likely commission of an offence involving serious harm to a child, would have an obligation to report. Making that clear helps both the counsellors and the people participating to understand precisely where they stand.

In relation to the other matters listed already in the legislation as permitting disclosure, the committee recommends that they remain discretionary but that there should be a general presumption against disclosure and that it should be disclosed only on the basis that the counsellor forms the view that the interests of another person or persons substantially outweigh the private interests of the person making the communication. Because the list of permitted areas is relatively large, if you leave it to an unrestricted discretion it could potentially poison the ideal that these conversations are essentially confidential. So that before somebody discloses some of that material they would have to form the view that, although it falls within those descriptions, the public interest or the interests of other individuals substantially outweigh the private interest of confidentiality that is being protected. In that regard they are helpful recommendations which clarify and make quite explicit what we actually mean in relation to these provisions—what I would have hoped was done before but was left quite vague.

There is a whole range of other recommendations which time will not permit us to travel over. Let me conclude with two points. Firstly, the report recommends further ongoing work in relation to a number of matters. Recommendation 13 suggests that there be a further inquiry to look at improving the effective protection of persons who are or may be victims of family violence—a very important matter—and a range of other matters. Do not think that the work has been done by the passage of this legislation.

Lastly, I join the criticism of Labor members about the way family relationship centres are going to be established and the partisan way in which they have been allocated to a backbench committee of government members to determine priorities. It is an absurd political whack, after we have done a lot on a bipartisan basis, to then foul the nest by the minister’s announcement that these decisions, which may have significant electoral consequences, are not being made independently but being made by a backbench committee overwhelmingly made up of new members and members from the most marginal seats, who would not have been chosen for proper reasons but for political advantage. (Time expired)

Mr TOLLNER (Solomon) (11.36 am)—I rise to speak today on the report of the Standing Committee on Legal and Constitutional Affairs on the exposure draft of the Family Law Amendment (Shared Parental Responsibility) Bill. There is probably nothing more divisive and time consuming for people than marriage breakdown. A stream of people are constantly coming into my office with concerns about family law, child custody arrangements, the Child Support Agency and a range of related areas. It is probably the most talked about affair in my office, and I do not believe that my office is any different from that of other members in Australia.

When I first got elected I was invited to turn up and say a couple of words at a Child Support Agency forum that was being held in Darwin. I had some speaking notes and was really looking forward to the opportunity to speak. I stood up and said a few words and somebody
else got up and spoke. The forum was asked to discuss ideas. From there, it broke down into complete mayhem with chairs being thrown around. I was quite stunned.

Mr Slipper—You were stunned after a chair hit you?

Mr TOLLNER—I was quite stunned that people were carrying on in this way. Members will be aware of the tensions that are created with family breakdown. The committee as a whole worked very closely together and in a spirit of cooperation, although from looking at the report I understand that some people might not see this.

Mr Slipper—There was only one dissenter.

Mr TOLLNER—There was one dissenter. But the whole committee worked together and saw the benefits in taking such an approach because of the seriousness of the issue and the fact that we all wanted to produce the best outcome in the interests of the community, in the interests of parents and, most importantly, in the interests of children involved. The committee rightly, I believe, took the attitude that the first obligation and the underlying objective was always to consider the best interests of children involved in marital breakdown. It is a very difficult area for legislators to work in because of the diversity of circumstances that constantly pop up and because a one-size-fits-all approach cannot be taken.

However, I believe that the recommendations formulated by the committee address many of the current inadequacies in the legislation and, when implemented, will achieve what they are designed to achieve. The recommendation to more heavily scrutinise violence and sexual assault claims against former partners is, I believe, a positive move. There should always be some sort of presumption of innocence in the law and there have been circumstances in the past—and I do not think anybody denies this—where false claims have denied a parent the right to be involved in their child’s upbringing.

One of the recommendations—and I believe it is well overdue—is that of providing more out-of-court mechanisms for resolving disputes instead of engaging in the long and often costly court battles that can arise from marriage breakdown. This will also lead to less acrimonious and far less costly separations. The establishment of family relationship centres will be a very positive move, bringing and enhancing professional skills and knowledge to local communities where they sometimes have not existed. They will help to resolve parental disputes. I am very happy that the Attorney-General has seen fit to look at putting a family relationship centre in my electorate of Solomon, based in Darwin. I think that is a great move by the government, and I fully support that decision.

Mr Slipper—And you lobbied hard for it.

Mr TOLLNER—Most certainly. I particularly want to thank the committee for the way that they worked cooperatively together. I particularly want to thank the chairman for the excellent job that he did in making sure that everybody got their say and had input into how the report was formulated. I think the cooperative way the committee worked was a result of the chairman’s excellent management of the committee. I am very glad to commend the report to the House, and I very much look forward to the legislation arising from it in the future.

Mr MURPHY (Lowe) (11.43 am)—I thank my colleague and friend the Chairman of the House of Representatives Standing Committee on Legal and Constitutional Affairs, the member for Fisher, and also Ms Joanne Towner, Dr Nicolas Horne, Ms Emily Howie and other members of the secretariat for the sterling job that they did in difficult circumstances. Nearly
two years after the House of Representatives Standing Committee on Family and Community Affairs published its report *Every picture tells a story*, the government responded to the committee’s recommendations by referring the matter to the House of Representatives Standing Committee on Legal and Constitutional Affairs on 23 June 2005 for inquiry into the exposure draft bill of the Family Law Amendment (Shared Parental Responsibility) Bill 2005.

I am critical of the Attorney-General’s time frame for this very important inquiry which forced the Standing Committee on Legal and Constitutional Affairs to report in seven weeks. Accordingly, I seriously question the motives of the Attorney-General to have our committee deal thoroughly with the exposure draft of the bill in such a ludicrously short time. I guess I should not be surprised when I am witnessing the Telstra privatisation bills being rammed through the parliament in a fire brigade environment this week, denying many members like me the opportunity to speak on these bills. Having got that off my chest, I draw attention to the statement by the Hon. Duncan Kerr SC, the Hon. Roger Price and me on page 223 of our report.

There was a great volume of submissions, exhibits, correspondence and oral testimony put before the committee during the inquiry. One submission was forwarded to Mr Slipper, Chairman of the Standing Committee on Legal and Constitutional Affairs, on 28 July 2005 and, in my view, provides an honest and graphic insight into the plight of one loving father and the burden and frustration he now shoulders and shares with his new partner in his endeavour to secure substantially equal time with his two children who are in the custody of his former wife. The author of this submission is the new partner of a father who is a victim of the legislation as it now stands, and I intend to read this letter in its entirety to the parliament today. I trust the Attorney-General takes seriously the issues identified in this case when proposing future amendments to the draft bill before it is introduced into the House. The letter reads:

Dear Mr Slipper

... ...

You may recall one interested observer in the Jubilee Room on Thursday 21 July at Parliament House, Sydney. At that time you had some time to spare and generously offered me the opportunity of making a submission to the Committee. With no preparation and inadequate knowledge of the Family Law Act 1975 or the proposed amendments I declined. However since that time I have been continuing to read on the subject and attended meetings with parents so I am now forwarding to you some of my observations.

Firstly I come, not as a lawyer or a scholar in the area, but as a stakeholder who became involved as the partner of the father of two beautiful children caught in the middle of a terrible system. Additionally I have a number of friends who are single mothers and I have become aware of the plight of many separated fathers.

Initially I tried to wade through the proposed amendments and although I realise that lawyers must address these issues I would like to point out that for self-represented parents there needs to be a simpler set of rules. I applaud Kay Hull’s statement that we need to have a lot more common sense introduced into this whole area and that we need to keep the lawyers only for the most difficult cases.

During the hearing last week it seemed to me that a large proportion of the time focussed on the issue of family violence. Luckily this does not enter into our situation, or indeed the situations of most cases, so my comments apply to children in families where there is no violence or abuse present.
I was disturbed to learn that “equal shared parental responsibility” does not mean “equal time”. It seems absolutely unfair to say to people that they have the burden of equal responsibility but not share in equal rights. And by perpetuating outdated stereotypes we are destroying good fathers, and teaching boys, the fathers of the future, that they will not be as important to their children as the mothers will. I wonder what sort of society we are thereby creating.

In our situation, equal, or substantially equal time, would have put some balance into the lives of the children. When the mother involves the children in the conflict on an almost daily basis they become indoctrinated. They believe that they should not love their father. And they know that they must not show any affection for their father in the sight of their mother. Because “contact” visits are weeks apart it takes some time with each visit for them to settle down and become less confused and anxious and the longer they spend with their father the more normal their behaviours become.

Spending equal time would have prevented the alienation of the 11 year old son who decided that it was easier for him not to go to see his father so that he wouldn’t have to bear the brunt of his mother’s derogatory comments for the days leading up to the weekend and again on his return.

Equal time would have prevented the mother moving to the outskirts of Sydney, without the knowledge of the father, making the mid-week afternoon “contact” impossible for a father who works in the city. Equal time would certainly have prevented her taking the children and “relocating” over 300 kilometres away, without the knowledge of the father, making full “contact” weekends impossible, fortnightly “contact” very difficult, and mid-term family functions virtually a thing of the past. And equal time would have prevented the mother from registering the children in her new partner’s name at the new private school in the country town.

Allowing the children to “live with” one parent signals to that parent and the children that the decision making is his or hers. After all if the children live with you, you choose the doctor and the dentist; you encourage one sport or musical instrument above another; you counsel on subjects to be taken at school; the children sit with you at the school functions, at the end of year ballet concert or sporting fixtures and so on. In the mind of an insecure parent this “residence” is absolute power – power to control and manipulate – the children and most importantly the other parent. A parent wishing to demonise the other parent can project their own feelings onto the children and coerce them to have other plans, feel sick or straight out refuse to go with the other parent when he or she calls. A parent seeking to alienate the other parent can deny “contact” whenever he or she wishes. And the perception in the community is that the Family Court will not enforce the orders.

Equal time would also allow “resident” mothers time for themselves to develop new relationships and most importantly the freedom to pursue paid work options and a career outside the home.

The Government Response to Every picture tells a story recommends “both parents having a meaningful involvement” in the lives of their children “to the maximum extent possible”. Spending three hours with children at the bowling alley on Wednesday afternoon does not provide “meaningful involvement”. Even spending every second weekend and half school holidays with children does not mean that you are integral to their lives as it is completely artificial. In reality they “live with” their mother and “visit” their father. It’s almost as if every time they get to see their father the children are “on holiday” and it doesn’t have anything to do with normal living—that’s for Mum. “ Meaningful involvement” for fathers surely means the same as it does for mothers—taking the kids to school, making sure they have their lunch, helping with homework, knowing what food your child likes and hates, teaching them to make a bed, cleaning up after your child’s been sick, sharing laughs as well as reading bedtime stories together. And you can’t even hope to be a good father if you don’t share the time. Fathers who want to be active fathers should not be deprived of the right or the responsibility.

If fathers had a fair chance of seeing their children this would remove the major cause of discontentment with the Child Support Scheme. Fathers are primarily angry at having to pay when they don’t even get to see their children on a fair basis. A fairer time allocation would also alleviate the frustrations
faced by men in merely trying to see their children. This would in turn reduce some of the unacceptable behaviour displayed by some fathers and ultimately some of the entrenched conflict. When your wife leaves, sometimes for no apparent reason, it’s traumatic—you feel a failure. But when the children leave as well it’s very painful. The pain persists and is only relieved by being with the children again.

At the very least a default minimum must be established so that parents don’t have to spend large sums of money just to arrive at this conclusion of a minimum or in some cases zero time with the children. Because his ex-wife kept relocating, my partner has spent upwards of $30,000 just trying to get the standard minimum contact provisions of alternate weekends and half school holidays and there have never been any objections to his character. Of course violence or child abuse would override any default minimum provision.

It is also critical that any interim plans are set up on a basis that they are likely to remain in place. Creating interim orders where the children live with one parent sets up the expectation for both parent and children that this will continue. All of this change is hard enough on the children without living with one parent for a couple of months and then changing to another plan. The ideal would be that the parents start at the Family Relationship Centre while still living together to explore various parenting plans.

I would also like to draw the committee’s attention to terminology that continues to augment the role of one parent over the other. The terms “live with” and “spend time with and communicate with” do not remove the inequality of the importance of both the parents in the equation. The same term must be used for both parents. We say that our child “lives with” us when she is with us and “lives with” her Mum when she is with her Mum. The official term should perhaps be “parenting time”. “Contact” and “spending time with” are such demeaning terms that inadvertently add to the pain of separation.

In summary I urge the committee to create a system:
Where children are able to spend equal, or substantially equal, time with each of their parents. This will allow the children to develop in a balanced way and achieve their full potential
Allow both parents to develop their own paid work options and reduce the reliance on welfare
Allow both parents to develop new relationships
Prevent both parents from moving away without making arrangements that take into account the views of both parents and the children
Reduce the anger felt by frustrated parents and reduce the entrenched conflict
Reduce the financial burden on a resident parent
Increase awareness of costs for the payer parent
Reduce the discontentment with the Child Support Scheme
Where time and responsibility are shared immediately after separation on an interim basis until all details are finalised
With a default minimum for “contact” for ordinary cases in the absence of violence or abuse, to prevent unnecessary court costs for parents when one will not agree
Using the same terminology for both parents such as “parenting time” rather than “live with” versus “spend time with and communicate with”
With strong enforcement measures for parents who contravene the parenting plans
With a set of rules and likely outcomes of the Family Law system in plain English
Thank you for your consideration …
I could not have put the case more succinctly than this submission has done. I urge the Attorney-General to give these matters serious consideration so that Australia gets better family law.

Mr SLIPPER (Fisher) (11.55 am)—by leave—I want to say how pleased I am that the government now seems to be using House committees to look into legislation and make inquiries into the sorts of matters which previously would have been the preserve of Senate committees. No doubt, there is still a role for Senate committees, but I want to commend the Attorney-General for using our committee. I was very pleased with the way our committee was able to work together. I have always operated on the basis that, wherever possible, House committees ought to be conducted in a bipartisan way. We all bring different talents. When one looks at the quality of some of the lawyers on our committee—and I exclude myself from that group—it is almost as though we have some of the most expensive legal minds on tap and ready to make a contribution to sorting out particularly complex aspects of any inquiry being undertaken.

I would like to thank the members, who have been very generous in their praise of my chairmanship, but it was a cooperative effort. I believe this is a really important subject and I am pleased that we were able to achieve what one could describe as an almost unanimous support. There was only one dissenter, the honourable member for Gellibrand, and she was in a difficult position. She was a member of the committee and desired to contribute in that context, but, as shadow Attorney-General, she had other responsibilities. Members opposite have also referred to an expression of concern by the member for Denison. He was joined by his Labor colleagues in that expression of concern, but the matter raised did not relate to the terms of reference—

Mr Murphy—That’s right.

Mr SLIPPER—and they would be the first to admit that it related to something else. Our report was almost unanimous, with only one dissenting person, and even the member for Gellibrand did not dissent on all points. The report is a strong and bipartisan report. I am hopeful that the government will accept the report in its entirety or almost in its entirety.

Honourable members have pointed out that family law is one of the most challenging policy issues that parliamentarians deal with in our day-to-day interaction with the Australian public. While the committee considers that the best interests of the child must always remain the primary focus of all parenting decisions, we did recommend changes to the exposure draft to better reflect the recommendations of the former Joint Standing Committee on Family and Community Affairs report *Every picture tells a story*, which were accepted by the government, to better facilitate the opportunity for both parents to contribute in their role as parents post separation. Consequently, the committee recommended the use of the term ‘equal shared parental responsibility’ rather than the term ‘joint parental responsibility’, which was in the exposure draft, to describe the presumption about the sharing of major decisions by both parents about a child. The committee also recommended—and this is a very important recommendation—that where there is an equal share of parental responsibility there should be an obligation on advisers and the court to consider specifically whether it is in the best interests of the child, and reasonably practicable, for the child to spend equal time, not just substantial time, with both parents. Some people consider this recommendation to be outside the terms of
reference, but the committee does not agree. The recommendation does not introduce a pre-
sumption of fifty-fifty joint custody.

Further on that point, we strongly believe that we took on board the matters that were
raised by the Attorney-General when he sent us the terms of reference and that we observed
those prohibitions very closely. The committee has sympathy with the submissions and wit-
nesses expressing concern that the substantial time provision in the exposure draft may not
operate to facilitate shared parenting. The committee notes that the paramount consideration
in all parenting orders will remain the best interests of the child. If the committee’s recom-
mendations are accepted by government, parenting orders will include, firstly, a presumption
about the equal sharing of parental responsibility. This ensures that major long-term decisions
about a child are made jointly. This presumption will not apply in cases involving family vio-
ence and abuse. Secondly, there will be an obligation where there is equal sharing of deci-
sions that the court consider equal time as an option. This is only relevant if it is in the best
interests of the child and reasonably practicable.

The committee strongly rejected any suggestion that this introduced a presumption of fifty-
fifty joint custody. A presumption of fifty-fifty joint custody would require a presumption that
encompasses both parental responsibility and time. A presumption of equal shared parental
responsibility, coupled with the recommended requirement that where that presumption ap-
plies the court must consider whether the option of reasonable time is in the best interests of
the child and reasonably practicable, is clearly not the same thing.

We were advantaged by having coopted to our committee for the purposes of this inquiry
the honourable member for Mitchell and the honourable member for Chifley, both of whom
served on the former House of Representatives Standing Committee on Family and Commu-
nity Affairs. We have as a permanent member of the committee the honourable member for
Riverina, who was the chair of that committee at the time it brought down its Every picture
tells a story report. Those three members brought to us the corporate knowledge of the prior
committee inquiry and what was intended when that committee handed down its report. That
is why we very strongly support what is in our report, and we are hopeful that the government
will look at that particular point favourably.

The committee also recommended a number of changes to the part of the Family Law Act
dealing with children to better focus on the paramountcy of the best interests of the child. The
committee was of the view—and I think it is fairly obvious when you look at the Family Law
Act—that the act has become increasingly complex and difficult to use. After all, it has been
around now for close to a third of a century. The committee is also of the view that a complete
rewriting of the act will be required at some time in the future. We hope that the Attorney-
General will be able to find the resources to allocate to this not minor task.

We recommended addressing concerns that we heard about family violence and abuse and
about the potential for false allegations of family violence and abuse to be made. Specifically,
we recommended to the government that provision be made for family law courts to directly
access reports about investigations into violence and abuse conducted by state and territory
agencies, that a specific cost provision be made where a court is satisfied that there are rea-
sonable grounds to believe that a person has knowingly made a false allegation and that a
change be made to the definition of family violence to introduce an objective element by en-
suring that the apprehension of harm is reasonable.

MAIN COMMITTEE
While examination of the family relationship centres was not part of the terms of reference, the committee is aware that the success of the proposed legislative changes is linked to the successful roll-out of some $400 million in services in the establishment of the family relationship centres, as announced as part of the 2005-06 Costello budget. The committee therefore recommended the development of accreditation standards for family relationship centres and for family dispute resolution practitioners as a matter of urgency, extension of the proposed community education campaign to accompany these reforms and close monitoring and evaluation of both the roll-out of the proposed family relationship centres and the impact of this legislation to ensure the positive introduction of these major legislative reforms.

In his speech my good friend the honourable member for Lowe expressed some concern about the time frame the committee was given by the Attorney-General. Nobody would deny that it was a fairly quick inquiry. While I am not going to talk about Telstra in this speech, I see this issue as being quite different from the issue of Telstra. I think the time available was short because the Every picture tells a story report and the government response have been around for a while. The Attorney is particularly keen to pick up the ball and run and get the legislative changes into the House as soon as possible, and we certainly endeavoured to meet the time frame imposed. I believe that, even though the time frame was tight and the hearing program was somewhat arduous, the report that we have handed down is not detracted from by the fact that we had to do it quickly. I think it is a good report and, even if we had more time, while the report might have been easier to do, it would have been of no higher quality than this report, and I believe this report is of a particularly high quality indeed.

The committee heard a diversity of strongly held views about the proposed changes contained in the government’s exposure draft. We endeavoured to consult widely. We sent letters to about 250 organisations and individuals with an interest in this issue and received some 88 submissions, 15 supplementary submissions and 36 exhibits. The committee held public hearings in Melbourne, Sydney and Canberra, including video links with a number of interstate witnesses. I want to comment briefly on the letter that the member for Lowe read to the Main Committee. That was a very moving expression of a point of view, and I am pleased that it is on the public record.

While the tight reporting deadline meant that more extensive consultation was not possible, the committee is confident it did hear a broad cross-section of views on the exposure draft. As I said earlier, we were very pleased that some members of the former Family and Community Affairs Committee inquiry were able to participate in this inquiry, because those members have been involved in a very extensive consultation process which included contributions from over 2,000 people and extensive hearings across the country. I would like to thank all of those who have contributed to this process. There has been a very valuable opportunity to ensure that the findings of the former Family and Community Affairs Committee inquiry are better reflected in the legislation.

While the committee makes some 59 recommendations, the committee concluded that the bill generally implements the government’s key reforms to family law which it announced in June 2005 in the government response to the Every picture tells a story report of the Family and Community Affairs Committee. The recommendations of the committee will strengthen the proposed bill in its implementation of the recommendations of the report. Many of our recommendations are of a minor and technical nature designed to improve the clarity of the
provisions, in particular for self-represented litigants. The committee considers that the proposed changes to the Family Law Act are of vital importance to ensure a focus on the best interests of the children in all decisions made post-separation.

In line with the terms of reference, the committee considers the proposed changes will: create an opportunity for parents, where appropriate, to make post-separation parenting arrangements outside of the court system; recognise and promote the benefit to children of having both parents involved in their lives, even where they have separated; recognise the need to protect children from family violence and abuse; and ensure that the court system is less adversarial and is focused on the best interests of the child.

There were a number of issues that arose during the inquiry that we did not have the capacity to address. In relation to these, the committee recommended a reference to an appropriate parliamentary committee to examine family violence, with particular reference to: measures that the Commonwealth may initiate on its own or with the cooperation of state and territory governments; longitudinal research into family violence, particularly the incidence of false allegations and false denials; and urgent introduction of a system of accreditation of children's contact centres. The committee was particularly disturbed by evidence presented to it—

The DEPUTY SPEAKER (Hon. AM Somlyay)—Order! Is the honourable member seeking to ask a question?

Mr Murphy—Yes.

The DEPUTY SPEAKER—Is the member for Fisher prepared to accept a question?

Mr SLIPPER—Yes, but I am short of time.

Mr Murphy—I wanted to ask the chairman when he expects the re-cast bill to be introduced into parliament?

Mr SLIPPER—I have spoken informally to the Attorney-General and I gather that a very high level of effort is going into responding to our report. The legislation should be introduced into the parliament very soon. I was disappointed that a dissenting report has been lodged by the member for Gellibrand. A number of matters covered are clearly outside the terms of reference. In conclusion, I would like to thank the committee secretary, the secretariat and the administrative staff. (Time expired)

Mr MELHAM (Banks) (12.10 pm)—Since being elected to parliament 15 years ago I have supported and endorsed the committee system in this place. It is a valuable tool in assisting the parliamentary process, particularly in its investigation of bills. With goodwill and hard work, a bipartisan result is often possible. This report is the result of the diligent work done by committee members and the secretariat. Unfortunately, I was unable to participate to the extent I would normally due to other commitments. I have now had time to consider the report and I endorse the recommendations. There is no doubt that the concept of the best interests of the child must underpin both the law and the letter of the law in dealing with family breakdowns and access. This is an extraordinarily difficult concept to put into practice for any number of reasons. The committee has obviously spent considerable time in attempting to deal with this in a manner which will be reflected in the legislation.

More than that the practical recommendations are also a reflection of the effort by the committee to put a realistic framework around this idea and to provide the mediators, officials and courts with a realistic construct to use in dealing with this most difficult of circumstances.
Specifically, I draw the attention of the chamber to recommendations 4 and 5. Recommendation 4 states:

The Committee recommends that section 65DAA be amended to provide that the court shall, in making parenting orders in situations where there is equally shared parental responsibility, consider whether equal time with both parents is in the best interests of the child and reasonably practicable.

I particularly note the phrase ‘reasonably practicable’. Guidelines for the obligations on advisers propose that the adviser in his or her discussions with parents on the making of a parenting plan must:

(a) inform them that, if the child spending substantial time with each of them is:
   (i) practicable; and
   (ii) in the best interests of the child;
   they could consider the option of an arrangement of that kind ...

I am aware that some witnesses to the committee indicated a concern with this as if the obligation on an adviser to make the suggestion may imply some authority to accept that specific suggestion. Despite the best interests of the child, it may be that the emphasis could be on parents’ right to access to the child and not what is in the best interests of the child. It is important that the notion of the rights of the child supersede any perceived rights of the parents.

I support recommendation 5 that subsection 63DA(2) be amended in addition to the other obligations so that the adviser is obliged to:

- inform parents that if the child spending ‘equal time’ with both parents is practicable and in the best interests of the child they should consider this option.

I also draw members’ attention to chapter 3, which deals with conflict resolution outside the legal system. The bill provides that a family disputes process be utilised prior to a court hearing and application for order, with some exceptions. The explanatory memorandum states:

This change will assist people to resolve family relationship issues outside the court system, which will have the benefits of providing flexible solutions, minimising conflict and avoiding costly court procedures.

I particularly note the final reference to costly court procedures. In cases of dispute in relation to child custody, there is no doubt that tensions and passions can run very high. Often the dispute is running alongside adults coming to terms with the fact that their lives are changing substantially. At the same time, it is very easy to suggest that people go and get legal assistance. Very few people are entitled to legal aid these days, especially with ongoing government cutbacks. For many people on low to middle incomes, finding the $1,200 or so for an initial consultation with a solicitor is simply out of the question. Bear in mind that for most people, apart from the psychological upheavals in their lives, financial disruption is another side effect of family breakdown. Therefore many people are simply not in a position to access an umpire, with the cost of a solicitor for both parents. So it is no surprise that, by the time these matters reach the Family Court, tempers are frayed and parents and children are stressed as they try to reach an agreement without the benefit of professional expertise. I support the requirement that dispute resolution must be attempted before applying to the courts for parenting orders. I note the conclusion of the committee report that the success of this process:

... will depend largely on the successful implementation, staffing and resourcing of the new Family Relationship Centres and the maintenance of resources for existing family services.
At the same time, recommendation 21 notes that ‘exceptional circumstances may apply in certain cases’—for instance, on the basis of family violence and child abuse. I understand questions were asked during the committee hearings as to whether ‘reasonable grounds’ was the appropriate test for the court in making those exceptions. The Family Court of Australia in its submission referenced the High Court’s authority in George v Rockett when it stated:

... where a statute prescribes that there must be ‘reasonable grounds’ for a state of mind ... in a reasonable person. It is not necessary for the judicial officer to personally hold the relevant suspicion or belief but it must objectively appear to a reasonable person, and not merely the alleging party, that reasonable grounds exist ... Presumably, those grounds would have to be credible and sworn to.

The committee considered the matter of the possibility of false allegations in order to satisfy the exceptions. The report notes that there will be disincentives to knowingly making false allegations, provided by the provision of penalties in the event that the court is satisfied on reasonable grounds that a false allegation has been made intentionally. Committee recommendation 21 states that exceptions to attendance at conflict resolution will be made on the basis of a sworn affidavit ‘asserting the existence of family violence or child abuse’.

I would like to draw particular attention to the development of the concept of parenting plans. While not currently legally enforceable, parenting plans nonetheless do have the benefit of a written agreement, which will suffice in many cases. These can only assist the parents in reaching an agreement in a non-adversarial manner, without the need for legal intervention. I commend this concept endorsed by the committee.

My final comments relate to recommendations 44, 45, 46, 47 and 48. It is worth while to note that these recommendations deal expressly with matters relating to Aboriginal and Torres Strait Islander children. Specifically, they recognise the need for consideration of kinship obligations and differences in child-rearing practices for Aboriginal and Torres Strait Islander children. The matters dealt with in these recommendations indicate that, as a parliament, we are moving to better understand the lifestyle, traditions and cultures of Aboriginal and Torres Strait Islander people. I particularly commend recommendation 47, which seeks an examination of the term ‘relative’. This would be to consider whether, under Indigenous customary law, the definition within the bill should include explicit mention of relatives other than those currently contained in the legislation. I congratulate the committee members and staff on their work, and I commend this report to the House.

Mrs HULL (Riverina) (12.18 pm)—I rise in the Main Committee today to support this report tabled in the House of Representatives on the exposure draft of the Family Law Amendment (Shared Parental Responsibility) Bill 2005. In rising to speak on this issue, I want to say that the term ‘shared parental responsibility bill’ outlines and defines exactly what the committee that I chaired found in our report entitled Every picture tells a story. What has now been supported by the report on the exposure draft of the Family Law Amendment (Shared Parental Responsibility) Bill is what the committee that brought down the report entitled Every picture tells a story agreed unanimously: that it was in the best interests of children that the committee recommend we create a clear presumption that can be rebutted in favour of equal shared parental responsibility as the first tier in post-separation decision making.

In our Every picture tells a story report, recommendation 2 states:
... Part VII of the Family Law Act 1975 be amended to create a clear presumption against shared parental responsibility with respect to cases where there is entrenched conflict, family violence, substance abuse or established child abuse, including sexual abuse.

In rising to support the tabling of the report on the exposure draft, I would like to come back to Every picture tells a story. It was a unanimous committee report—

Mrs Irwin—An excellent report.

Mrs HULL—It was an excellent report. The member for Fowler was very much a part of the committee as its deputy chair. Every member went to great lengths to overcome their own personal feelings and personal stance on issues to ensure that we looked at the best interests of the children.

Mr Neville—You had some great witnesses too.

Mrs HULL—We did have very good witnesses. The member for Hinkler was a witness as well. So, when we come to the legislative process of changing the Family Law Act, it is important—in fact, it is critical—that we go back to the Every picture tells a story report. This report is saying clearly that the concept of equally shared parental responsibility is supported by both the opposition and the government. And the House of Representatives Standing Committee on Legal and Constitutional Affairs has come to agree on that as well.

The Hon. Peter Slipper, who chaired this committee, did a crash course in family separation and breakdown and the emotive issues that surround all of the circumstances of families when parents are no longer able to live together but are still responsible for sharing the lives of their children for an indeterminate time. The report on the exposure draft that has been tabled in the House reflects the wishes and desires of the committee that deliberated on the Every picture tells a story report. I support equally shared parental responsibility and think it should be clearly included in the new Family Law Act.

Myriad people have called me and expressed concern about this report and its recommendations because of what they might mean for people who are victims of domestic violence. Can I say that all the committees have looked at domestic violence as being one of the significant factors where a decision should never be made that would not be in the best interests of the child.

Every committee member who contributed to Every picture tells a story and every member on the Slipper committee who contributed to the report on the exposure draft of the bill recognise the significance of family or domestic violence and sexual and mental abuse. Not one of us would ever legislate to put a child or a family in a position of being subjected to violence. However, having said that, we think that we have quite adequately coped with such incidents in our list of recommendations. In fact, domestic violence is a criminal law issue. That it is a facet of criminal law has to be taken on board by all parties who deal with domestic violence.

Of great concern to me has been the indiscriminate use, or perhaps the emergence of indiscriminate use, of AVOs and DVOs. Domestic violence orders and apprehended violence orders have a place in our society, and their place is to try and protect those people who are being subjected to violence.

It has become so commonplace to apply for an AVO or a DVO that I believe the law enforcers in the states basically say, ‘Here we go, another AVO.’ The problem is that people who
need protection are standing in line with some who may use this in a vexatious way. We do not support the vexatious use of AVOs, simply because it exposes legitimate sufferers of domestic violence to not being considered in the most efficient, effective and timely manner. That concern has always been raised with the committees as they have gone through this process. Every woman, every man and every child should be protected from family violence. There is no excuse for any child, any woman or any man being in a position whereby they are not considered seriously when there has been a report of domestic violence.

When I became aware of the fact that some shelters and other groups were advising clients to apply for AVOs in order to remove a partner from the house to get established residence of children, I became very alarmed. If people out there are giving that advice, they are doing no favours to those genuine sufferers of domestic violence that we know exist. It is simply not acceptable to do such a thing. Nobody would ever agree that anybody who is in fear of domestic violence should be held back or should not be treated in the most timely, urgent manner because somebody is doing something that is not required in the first place.

Both men’s groups and women’s groups have their positions. I do not take the position of either group. I do not take a position for men; I do not take a position against men. I do not take a position for women; I do not take a position against women. I do take a position for children in circumstances for which they have no responsibility. I think every member of the committee that handed down the report Every picture tells a story and every member of the committee who was responsible for reporting on the exposure draft of this bill would agree with that. So it is with great concern that I feel that at times we are using this circumstance—and families on both sides of this equation come to see me.

When there is a dispute within a partnership, sometimes people get heated and do something that they have never done before—it might be raising their voice, shouting, using abusive terms et cetera. The police have always taken the stance that, if they are called to a place where there is a report of abuse, they will remove the male from the house. We then have the position that, because the male is seen to have left the house, to have left his place of abode—not because he has been removed from the house—he is considered to have walked out. An interim process then keeps him away from his family home, because he has been almost evicted from that family home. This happens time and again: the male might turn up to mum and dad’s house with a small bag, if that, because there has been a blazing verbal row—there have probably been abusive comments made by both parties to the argument—and it got so heated that somebody called the police. The police have removed him from the house in order to settle things down and he goes off to mum’s place or a mate’s place. It is then recognised that he left the marital home and it is very difficult for him to get back in. I do not think that is a fair position at all. I think the committee, in trying to communicate through this report the very real issues it came across, has come up with the best list of recommendations.

In the issue of men not taking responsibility for their children, no greater insult or offence is caused to children than the situation where a father (a) does not take responsibility for their child—he might go to any lengths to ensure that they do not meet the financial upkeep of their child—or (b) does not make himself known to the child as far as parental responsibility goes. There is no excuse for either of those actions. There is also no excuse for a mother to be terribly hurt and bruised emotionally and mentally—not physically perhaps but have difficulty
with the circumstances in their lives—and withhold involvement from a father who wants to be in their children’s lives.

I have been abused by the best over this report and I have been abused by the best over the last report. I am almost bullet-proof, but we were given a task to do and we carried out that task to the best of our ability. We have looked at the domestic violence issues confronting women. We do not concur with domestic violence and the criminal courts should come down hard on anybody who perpetrates domestic violence on a woman or a man in a relationship—because it is not just an act perpetrated on women. We say the criminal courts should slam down hard on domestic violence. We also say that if there is no domestic violence then children should have the right to have the love and attention of both parents in the most responsible way. You may not be partners in a household, you may have differences that can never be overcome and you may have to separate for whatever reason—and, goodness knows, there were thousands of reasons given as to why people separated; sometimes you could not understand the reasons, and they were personal reasons—but, if you cannot live in the same house and under the same roof and raise the children together, if you cannot be partners for life, there has to be a recognition that you are parents for life. You are responsible for your child’s clear and concise understanding that their mother and their father love them regardless of whether or not they are living in the house and that you are going to put your differences aside to the best of your ability in the best interests of the children.

I will get another 10, 20, 30 or 100 abusive calls and emails about my speech in the Main Committee today, but I rest easy because we have done the best we possibly can. This has been the first opportunity we have had to restore proper intent to the Family Law Act that gives a right to both parents, all circumstances being equal. The right of the child is for both parents to ensure that they are loved.

Mr PRICE (Chifley) (12.33 pm)—It is a pleasure to enter the debate on the report by the Standing Committee on Legal and Constitutional Affairs on the exposure draft of the Family Law Amendment (Shared Parental Responsibility) Bill 2005. I acknowledge the presence of the member for Riverina, who has just spoken, who is a member of this committee but also was the Chair of the Standing Committee on Family and Community Affairs who produced the report Every picture tells a story, and also the deputy chair of that committee, the honourable member for Fowler.

At the outset I wish to place on record my appreciation of the honourable member for Fisher, the chair of this committee, and the permanent members of the committee for the generosity and kindness they extended both to me and the member for Mitchell as participating members in this inquiry. I have to be frank and say that it was hoped that either the honourable member for Fowler or even the honourable member for Throsby on our side might have participated in my stead, but I regret to say that, notwithstanding their desire and their willingness to do so, they were unable to and the committee got me as a third prize.

I have supported all of the recommendations in the committee’s report. Attorney-Generals on both sides have had a good record of referring draft legislation to this committee. It is a practice that I think should continue and one which should be, and can be, extended to other committees. I have made public reference in the House to the fact that all members were provided with a marked-up copy of the legislation—that is, the legislation showed the clauses in the current Family Law Act that were proposed to be deleted and those that were being added.
I am not sure how we could ever have done a good job without it and I sincerely thank the Attorney-General.

This actually prompted an interest as to why—particularly when major bills are before the House—all members cannot be provided with marked-up copies of legislation. I am embarrassed to say that I was not aware that there was a practice of having so-called black bills, which is the very thing that I am referring to. In fact, this government has not provided one black bill for members of parliament to consider legislation. Ironically, the last time a black bill was produced was back in 1989 and it was on child support. I hope that members will take note of the great utility for this committee in having that marked-up copy from the Attorney-General. Other members of parliament, when considering legislation, may be interested in having—not for every bill, or even most bills, but certainly for the significant bills that radically change legislation—either a black bill or a marked-up copy, as this committee was privileged to receive.

There are many things that I would like to say about this report but time prevents me from doing so. Therefore, I will devote my attention to just a few areas. One of the most difficult issues in family law is domestic violence. The member for Riverina made some remarks about that. There are too many instances of gross domestic violence—if I can put it that way—usually perpetrated upon a woman. To my mind, and in their experience, the system as it currently operates provides inadequate protection. In fact, under the laws of most states two instances of physical abuse are required before the system swings into action. That is not a situation that any member of parliament can be comfortable about. However, there are cases, particularly in family law, where there are allegations of domestic violence that have more to do with the break-up of a relationship or a marriage than any real criminal activity. It appears that the current system will continue.

I am very pleased that this committee has taken a stand, particularly in recommendations 12 and 13, and has proposed that there be a comprehensive inquiry into domestic violence. I will not repeat the precise wording of the recommendation. In fact, there was a view in the committee that it would be an excellent idea if two committees which have established their reputations by the work that they have done were jointly responsible for such an inquiry. I refer of course to the committee on which the member for Fowler currently serves as deputy chair—that is, the Family and Human Services Committee—and the Legal and Constitutional Affairs Committee, which for many years has had a fine reputation.

Would it not be a really good thing to have a committee skilled in the law, in law enforcement, looking at the issue together with one that is looking at the social impacts and impact on individuals? Unfortunately—I notice that our learned Deputy Clerk is at the table—there are no provisions in the standing orders that facilitate such a joint inquiry. As a member of the Privileges Committee, I must say that it is not something I have thought about previously, although we have devoted much attention to the operation of committees. I think the parliament would be well served if we were to consider what was originally the intent of this committee for a joint inquiry. It is not an inquiry in which we would play politics, it is not an inquiry with predetermined outcomes, it is not an inquiry where just one level of government would be solely responsible for processes and outcomes; it would be a great opportunity to work cooperatively and constructively, as parliamentary committees often have a reputation for doing, and looking at how different levels of government interconnect and operate, getting
better outcomes, most importantly, for the people we seek to serve. I honestly believe that all the issues around domestic violence—much like family law or child support—are being put in the too-hard basket and people are not prepared to confront what needs to be confronted. Forgive me for saying that I hope the government, in its response to this report, will pick up the recommendation.

In no way do I wish to denigrate the concept of family relationships centres, but one of the key thoughts of the original committee was that there needs to be an enforcement mechanism, that there needs to be an opportunity for redress to accommodate not only a change of circumstances but more particularly where access orders were not being carried out. The committee recommended a tribunal. I looked up the Hansard record and found that I am a most unsuccessful member of this parliament, that I have been talking about family tribunals for nine years. In this instance, I must say the committee’s recommendations about the tribunal were rejected by the government as being outside these terms of reference. I think that is a pity. What really killed it in a way was a magical figure of some $600 billion in costs for the tribunal as recommended by the committee. I have always believed that this was an outrageous and wildly exaggerated figure. I am, most unkindly, going to accuse the Attorney-General or his officers of floating that with the media. It did have its effect—it killed off a tribunal.

The key element of the tribunal was this: I will not say that lawyers or solicitors and barristers were barred but they needed to seek leave of the tribunal to appear. Therefore, they were effectively going to be free of the legal profession. One of the things I have never understood about family law is that more than any other profession we entrust the lawyers to deal with matters. It is as though we have never migrated from the concept of marriage as being one of contract law involving goods and chattels. Indeed, in that situation lawyers are probably the perfect people to have arbitrating. But, when people go through difficulties and challenges in raising their children, they do not go to the family solicitor and ask, ‘What’s our next step?’ If they have difficulty about a child’s progress in a school, they do not rush off to the solicitor and say, ‘What is the next step?’ but when people are having difficulty in relationships, by and large under our family law system we demand that they go to solicitors. We are offering those who have broken up an alternative—that is, the family relationships centres or an approved practitioner—and we are demanding that they take it up. I could go into that, but I invite people—not in a condescending way—to read the report. We are insisting that they do that and that they develop their family plans. But I keep on saying that you need an enforcement mechanism—I sincerely believe that. The committee at the time had legal advice that the tribunal was perfectly constitutional and would avoid the Brandy case limitations in its operations, so why am I so anxious about it? In a sense this report and the change legislation are trying to develop a better climate for those who will, in the future, suffer relationship or family breakdown where children are involved—a very worthy aim. But there are about one million children, if I am not incorrect, who are suffering as a result of being in a family that has already broken down. As every member of this parliament knows, in terms of access the system is not working well. There are many cases where it is not working well and where parents, and often grandparents, have exhausted themselves financially before the courts and still have no redress. It is an issue we need to revisit.

I will sum up on a couple of points. I support the recommendations and I think the committee has brought down a good report. I have talked about two aspects of the report. I certainly
want to one day stand in this parliament and say, in an unconstrained and unqualified way—whatever the government; whether it is this government or a future government that may not be of the same persuasion—that we have totally tried to tackle every challenging issue in this family law child support and counselling area and that I can find no criticism that we have not covered it completely or done our best. It is true that it requires a great deal of bipartisan support to get changes through the parliament, even notwithstanding the government’s majority. Bipartisanship is the way—this ought not be an area for politics. But, even if we have been so miraculous as to get everything right, we should never hesitate to review what we have done, whether that is in pre-marriage counselling, child support or family law. We should never be frightened to review and ask: ‘Is this working as it was intended? Has something changed out there in the community?’ It is not a disgrace to review matters and it is not a disgrace to change things. I hope we will both be in this parliament, Mr Deputy Speaker, when I get up and make that speech. I commend the report.

Mr FAWCETT (Wakefield) (12.48 pm)—Today I rise to support the recommendations in the report on the exposure draft of the Family Law Amendment (Shared Parental Responsibility) Bill 2005. I would like to speak on a number of areas covered by the report—in particular, equal-shared parenting, family violence and the family relationships centres. Before I do so, I want to say that I welcome the bipartisan approach to family law—I think it is an area where, if we are going to support our families, we need that to continue.

I want to place on record some background on the task force that is looking at the family relationships centres. Concern has been expressed by members opposite, today and previously, about the role and motivation of members of the task force. The motivations are actually well known. I refer to an article by Stephanie Peatling that appeared in the Sydney Morning Herald on 7 June. It says:

Liberal backbenchers concerned that the Federal Government’s new Family Relationship Centres will be seen as “crisis centres” for fractious couples have formed an informal policy committee to try to expand the role of the centres.

That role is very much where we are at. We seek to make sure that these family relationship centres and the supporting family relationship program have an equal, if not greater, weighting towards promoting healthy and functional families in our community—rather than waiting until they have fallen off the edge of a relational cliff. If these family relationship centres are seen as just a divorce shop, we will have failed Australian families.

Neither I nor any other member of the task force has a role in selecting the locations of these centres or in choosing providers. In fact, as a member with a marginal seat, politically speaking there are other things I could far better be doing with my time than being involved with this. But as somebody who is passionate to see stronger and functional family relationships in Australia, I am compelled to get involved in the most effective way that I can.

To come back to the bill, I would like to speak on three areas. The first area is covered predominantly by recommendations 1, 3 and 4, which deal with shared parenting. I would like to discuss this in the context of the bill but also in the context of the broader community—the 90-odd per cent of Australian families with dependent children where both biological parents are still present. They, surely, deserve our attention as well as those who are in the unfortunate circumstances of having separated.
In recommendation 1, the Standing Committee on Legal and Constitutional Affairs recommends that, to be consistent with the recommendations of the former Standing Committee on Family and Community Affairs, all references to ‘joint parental responsibility’ should be replaced with the term ‘equal shared parental responsibility’. In recommendation 3, it suggests the deletion of a note which would imply that there is no reason to have equal time. And recommendation 4 means that parenting orders should consider whether equal time with both parents is in the best interests of the child and reasonably practical.

In the context of this report, I do not think there is a member of this House who would not realise the significance of this whole area for people who have separated. It is the cause of much anger and much litigation. It is the cause of much debate about parents’ rights versus the best interests of the child and versus children’s rights. Much attention and many resources are devoted to treating the outcomes, but very little is devoted to identifying and treating the causes.

Why does it give rise to so much anger and feeling? Why must it be resolved? It is fairly well known that there is a realisation of loss—that the parent who now does not have regular access, probably in some cases for the first time, realises just how much they have lost. There are feelings of hurt, anger and resentment. There is also a need. Children need both parents. Many studies highlight the benefits of the involvement of both parents. The mother and father are not just an additional pair of hands; they bring a completely different set of behaviours into the home.

The facts are out there about absent parents, particularly absent fathers—covering child abuse, crime, drug and alcohol abuse, educational outcomes, emotional and behavioural problems, physical health, poverty and sexual activity. It is particularly the case for daughters where the father is absent. There is a whole range of facts as to why we should address this to make sure that both parents have the opportunity to be involved in their children’s lives, partly for the sake of the parents but predominantly because of the outcomes for the child.

Most importantly, I wish to highlight that the best way for a child to achieve the best outcomes is if the parents equally share the investment of their parenting time when they are an intact family. Sadly, the effect of dealing with the crises that occur from separation is that most of the attention and resources go to post-separation cases. We can no longer afford this neglect of our families. That is something that I will address further.

The second area I wish to touch on briefly is recommendation 13, which deals with family violence. It looks at a number of areas of family violence, but in particular the fourth point looks at assessing the effectiveness of initiatives in public education, prevention and rehabilitation. That is a really important aspect. I strongly support it. Nobody should accept or condone family violence, whether it be by men to women, women to men or either parent to the child. But family violence is a significant cause of concern in relational difficulties. There is the fear of violence, whether that is experienced violence or just threatened violence in the home, and, post separation, there is the frustration at the vexatious claims of violence that occur in the system.

Programs to address domestic violence are starting. In South Australia at the moment there are some good programs being broadcast on TV which are highlighting what is acceptable and what is not acceptable. But there appears to be very little being done to ask why some men and women resort to violence as a way of expressing themselves in their relationships. I be-
lieve that there is a lot to be done, which brings me to the third point, recommendations 56 and 58, dealing with the proposed family relationship centres and education programs. I think this is the key to actually achieving a change not only in the circumstances facing families post separation but, importantly, in the health and wellbeing of families while they are intact.

The family relationship initiative has the potential to be a key part of the solution to equal shared parenting both in marriage and if a couple separates. It can also play a part in reducing the factors that lead to violence in the home. As I have stated, the best interests of the child require that that child be brought up by a mother and a father who themselves are in a functional relationship which, even if not perfect, is characterised by love and respect for all family members. We should be focusing effort not only on helping people to achieve this post separation but also in the marriage, because in this way the chances of a marriage surviving are increased and the issues post separation, if that occurs, are likely to be less traumatic.

One parent, however, is increasingly absent most commonly in today’s society—that is the dad. This absence can occur while the marriage is intact as well as post separation. While the marriage is intact this can be due to the pressures of work, poor relationship skills or simply a lack of awareness about the part that their role as a parent should be playing, and that often stems from poor role modelling from their own parents or family of origin. Post separation there is even less ability to be involved in a meaningful way. Some biological fathers choose not to be involved, for valid reasons, but some simply desert their children. Some are prevented from spending time with their children through circumstances but, all too frequently, some dads are prevented by court orders from meaningful involvement in their children’s lives.

There was an article in the Australian last week talking about ‘Disney dads’ and the fact that a real relationship requires the mundane involvement as well as the holiday. There is a lot of research talking about the benefits of both parents being involved, but that involvement needs to be across a whole range of activities, not only the exciting times but also the hard times. Members opposite have spoken today about the roles in which parents—dads and mums—need to be involved, whether it is cleaning up after a child has been crook or helping them with homework; it is about doing the mundane things as well as the exciting things. Unfortunately, that is not the case for many men, also those who live at home.

Psychologist Ross Campbell highlights that it often is not the case because of a lack of desire or want on the part of the father but because their life skills, perhaps their communication skills, their role modelling about how to communicate or how to show respect or love to their spouse and the children are absent. He recounts stories of fathers who are shattered when their family falls apart or when a child goes off and starts getting involved in a range of things that they never thought could be possible. The feedback from the child or the spouse is, ‘You may have thought that, you may have felt that, but you never showed it.’ By not supporting our fathers, by not helping to build a fence before they reach the edge of a relational cliff, we are doing families a great disservice.

So what can be done? I believe that recommendations 56 and 58 point to the answer, which is part of the reason that I am involved with the family relationship centres: I believe that we need to make a significant investment in education and awareness. I say awareness because people need to know. Smoking ads have helped people understand the costs involved and the damage that smoking does to people, and that brings about an attitudinal change. People need
to be aware of the role they have in relationships, the need to improve their skills. We all accept that Lleyton Hewitt has a tennis coach, even though he is one of the best players in the world; but most men would say that they do not need any help, thanks very much, with their relationships. The fact is that most of us do.

We need to increase opportunities and incentives for involvement in relationship education and we need to increase the funding that we put into increasing communication skills and conflict resolution skills. Those are the things that will also help reduce domestic violence, which often comes from the frustration that builds in relationships. Coupled with the other initiatives, such as encouraging workers and their employers to negotiate more flexible work practices that allow for better balance of family and work life, the proposed family relationship centres and the supporting educational awareness programs can make a difference.

I point out that what is required is not just a change of circumstances but a change of heart, a change of attitude. I, along with other parents, live in a changing world where the pressures of work and other responsibilities impact on the time available to spend with my spouse and children. Many couples living under these pressures still have a good relationship and substantially share in the lives of their children. To achieve this, however, requires an awareness of the risks, a motivation to overcome the difficulties and the life skills to do so.

I support the report’s call for equal parenting responsibility, both in the context of separations and in the context of intact families; reduced domestic violence; the roll-out of the family relationships centres and the educational program that goes with that; and the review to look at its effectiveness. But I do this in a context of saying that there needs to be significant investment in support for Australian families which sees a change of attitude towards how intact families work as well helping those families who need it post separation. I commend the report to the House.

Debate (on motion by Mr Broadbent) adjourned.

Main Committee adjourned at 1.02 pm
QUESTIONS IN WRITING

Asylum Seekers
(Question No. 746)

Mr Laurie Ferguson asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, in writing, on 9 March 2005:

(1) When does the department expect that the final decision will be made on permanent protection for asylum seekers who landed by boat in 2001.

(2) If an asylum seeker’s claim is rejected, does he or she have a right to apply to the Refugee Review Tribunal for review; if so, what is the estimated cost of such a review.

(3) Where the review process concurs with the original decision, what right of appeal is there to the (a) Federal Court and (b) High Court and what is the estimated cost of an appeal.

(4) At what stage in the appeal process will the applicant (a) become ineligible for Medicare benefits and (b) lose permission to work.

(5) At what stage in the appeal process is an applicant detained.

Mr John Cobb—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable member’s question:

(1) The Department expects that Temporary Protection Visa (TPV) holders who landed in Australia by boat in 2001, who had made a further protection visa application by 17 June 2005 (and held their TPV for 30 months at that time) will receive a departmental decision on their application by 31 October 2005. All other TPV holders who have applied for a further protection visa will receive a departmental decision 90 days after they have held their TPV for 30 months or the date of application (which ever is the later) as they are then able to access a permanent protection visa. Exceptions will be where there are delays beyond the Department’s control, such as security and character clearances.

A final decision for those people whom the Department refuses a further protection visa will depend on the timing of outcome of any merits review by the Refugee Review Tribunal, and any subsequent litigation, if pursued.

(2) Yes. All onshore asylum seekers have a right to seek review at the Refugee Review Tribunal (RRT). RRT and Departmental management systems do not disaggregate review processing costs for further applications for protection visas by Temporary Protection Visa (TPV) and Temporary Humanitarian Visa (THV) holders from the review processing costs of other tribunal reviews.

(3) (a) and (b) Where the RRT affirms the decision of a primary decision maker, the applicant may seek judicial review in the Federal Court, the Federal Magistrates Court, or the High Court in its original jurisdiction.

If the applicant is unsuccessful before the Federal Court or Federal Magistrates Court, they have a right of appeal to the Full Federal Court. If the applicant is unsuccessful before the Full Federal Court they may apply to the High Court for special leave to appeal. On average, the expected cost to the Department in defending an application for judicial review filed in the Federal Court or the Federal Magistrates Court is approximately $6000. The expected cost to the Department in defending an application for judicial review filed in the High Court is $4,175 (based on average figures for all High Court cases in the 2004-05 financial year).

(4) (a) and (b) Temporary Protection Visa (TPV) and Temporary Humanitarian Visa (THV) holders retain work rights and Medicare access until the final resolution of their application for further protection at merits review. For those granted a further protection visa, work rights and Medicare ac-
cess will continue for the term of that visa, which in many cases will be a permanent protection visa. Those whose application for a further protection visa is refused can access an 18 month Return Pending Visa which will continue work rights and Medicare access while the individuals make plans to leave Australia or pursue mainstream visa avenues to remain in Australia.

(5) Applicants for further protection remain lawfully in the community throughout the merits review process. If unsuccessful at review they can access an 18 month Return Pending Visa and also apply for a range of mainstream visas during this period. If litigating or have not departed for other reasons at the end of that period, they may be able to access bridging visa arrangements under the Migration legislation.

**Massage Service**

*(Question No. 996)*

**Mr Bowen** asked the Minister representing the Minister for Communications, Information Technology and the Arts, in writing, on 10 May 2005:

(1) Does any agency for which the Minister is responsible pay for massages for its staff; if so, what sum did each agency spend on this purpose in 2004.

(2) What was the cost per massage.

(3) How many staff made use of this service.

**Mr McGauran**—The Minister for Communications, Information Technology and the Arts has provided the following answer to the honourable member’s question:

(1) to (3) In 2004, the following portfolio agencies engaged in providing massages services for staff.

<table>
<thead>
<tr>
<th>Name of Agency</th>
<th>Sum spent on massage services in 2004</th>
<th>Cost per massage per person</th>
<th>Number of staff which made use of this service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia Council</td>
<td>$490.00</td>
<td>$9.80</td>
<td>50</td>
</tr>
<tr>
<td>Australian Film Commission</td>
<td>$1988.00</td>
<td>$26.09 (Canberra and Sydney)</td>
<td>44 (Canberra and Sydney)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$70.00 (Melbourne)</td>
<td>12 (Melbourne)</td>
</tr>
<tr>
<td>Australian National Maritime Museum</td>
<td>Expenditure was not itemised as the massages were a component of a comprehensive health awareness program for which the ANMM paid.</td>
<td>NA</td>
<td>47</td>
</tr>
<tr>
<td>National Library of Australia</td>
<td>$759.00 inc GST.</td>
<td>$22.32</td>
<td>34</td>
</tr>
<tr>
<td>Australia Post</td>
<td>Post spent around $55,000 on therapeutic massages under its Healthy Lifestyle program.</td>
<td>$5.00 to $15.00</td>
<td>Approximately 560</td>
</tr>
<tr>
<td>Telstra</td>
<td>Whilst Telstra does from time to time employ such services for its staff, no centralised record is maintained that would allow this information to be provided.</td>
<td>No centralised record available.</td>
<td>No centralised record available.</td>
</tr>
</tbody>
</table>
**Graphic Design Companies**

(Question No. 1024)

Mr Bowen asked the Prime Minister, in writing, on 10 May 2005:
Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr Howard—The answer to the honourable member’s question is as follows:
Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

**Graphic Design Companies**

(Question No. 1025)

Mr Bowen asked the Minister for Transport and Regional Services, in writing, on 10 May 2005:
Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr Truss—The answer to the honourable member’s question is as follows:
Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

**Graphic Design Companies**

(Question No. 1026)

Mr Bowen asked the Treasurer, in writing, on 10 May 2005:
Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr Costello—The answer to the honourable member’s question is as follows:
Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

**Graphic Design Companies**

(Question No. 1027)

Mr Bowen asked the Minister for Trade, in writing, on 10 May 2005:
Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr Vaile—The answer to the honourable member’s question is as follows:
Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

**Graphic Design Companies**

(Question No. 1028)

Mr Bowen asked the Minister representing the Minister for Defence, in writing, on 10 May 2005:
Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr Downer—The Minister for Defence has provided the following response to the honourable member’s question:

Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

**Graphic Design Companies**

(Question No. 1029)

Mr Bowen asked the Minister for Foreign Affairs, in writing, on 10 May 2005:

Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr Downer—The answer to the honourable member’s question is as follows:

Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

**Graphic Design Companies**

(Question No. 1030)

Mr Bowen asked the Minister for Health and Ageing, in writing, on 10 May 2005:

Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr Abbott—The answer to the honourable member’s question is as follows:

Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

**Graphic Design Companies**

(Question No. 1031)

Mr Bowen asked the Attorney-General, in writing, on 10 May 2005:

Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr Ruddock—The answer to the honourable member’s question is as follows:

Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

**Graphic Design Companies**

(Question No. 1032)

Mr Bowen asked the Minister representing the Minister for Finance and Administration, in writing, on 10 May 2005:

Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.
Mr Costello—The Minister for Finance and Administration has provided the following response to the honourable member’s question:
The Special Minister of State is providing an answer to this Question on Notice on behalf of all Ministers.
Information relating to the engagement of graphic design companies in the first half of 2004 can be found in agency annual reports for 2003-04, which were tabled in October 2004. Information relating to the engagement of graphic design companies in the second half of 2004 will be found in 2004-05 annual reports to be published later this year.

Graphic Design Companies
(Question No. 1033)

Mr Bowen asked the Minister for Agriculture, Fisheries and Forestry, in writing, on 10 May 2005:
Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr McGauran—The answer to the honourable member’s question is as follows:
Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

Graphic Design Companies
(Question No. 1034)

Mr Bowen asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, in writing, on 10 May 2005:
Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr John Cobb—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following response to the honourable member’s question:
Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

Graphic Design Companies
(Question No. 1035)

Mr Bowen asked the Minister for Education, Science and Training, in writing, on 10 May 2005:
Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Dr Nelson—The answer to the honourable member’s question is as follows:
Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.
Graphic Design Companies  
(Question No. 1036)

Mr Bowen asked the Minister representing the Minister for Family and Community Services, in writing, on 10 May 2005:

Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr Hockey—The Minister for Family and Community Services has provided the following response to the honourable member’s question:
Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

Graphic Design Companies  
(Question No. 1037)

Mr Bowen asked the Minister for Industry, Tourism and Resources, in writing, on 10 May 2005:

Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr Ian Macfarlane—The answer to the honourable member’s question is as follows:
Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

Graphic Design Companies  
(Question No. 1038)

Mr Bowen asked the Minister for Employment and Workplace Relations, in writing, on 10 May 2005:

Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr Andrews—The answer to the honourable member’s question is as follows:
Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

Graphic Design Companies  
(Question No. 1039)

Mr Bowen asked the Minister representing the Minister for Communications, Information Technology and the Arts, in writing, on 10 May 2005:

Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr McGauran—The Minister representing the Minister for Communications, Information Technology and the Arts has provided the following response to the honourable member’s question:

QUESTIONS IN WRITING
Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

**Graphic Design Companies**

(Question No. 1040)

Mr Bowen asked the Minister representing the Minister for the Environment and Heritage, in writing, on 10 May 2005:

Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr Truss—The Minister representing the Minister for the Environment and Heritage has provided the following response to the honourable member’s question:

Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

**Graphic Design Companies**

(Question No. 1041)

Mr Bowen asked the Minister for Veterans’ Affairs, in writing, on 10 May 2005:

Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mrs De-Anne Kelly—The answer to the honourable member’s question is as follows:

Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.

**Communications, Information Technology and the Arts: Grants**

(Question No. 1483)

Mr Bowen asked the Minister representing the Minister for Communications, Information Technology and the Arts, in writing, on 25 May 2005:

(1) Has the Minister’s department or any agency in the Minister’s portfolio made any grants for any purpose to the national or state or territory branches of (a) the Australian Chamber of Commerce and Industry, (b) the Australian Industry Group, (c) The National Farmers Federation, (d) the Business Council of Australia, (e) the Motor Traders Association of Australia, (f) Employers First, (g) Australian Business Limited, (h) the National Retailers Association, (i) the Australian Liquor Association, (j) the National Electrical Contractors Association, (k) the State Chamber of Commerce (NSW), and Housing Industry Association in (i) 2003-04, (ii) 2004-2005 and (iii) 2005-2006.

(2) What was the purpose and amount of each grant and on what date was each grant awarded.

Mr McGauran—The Minister for Communications, Information Technology and the Arts has provided the following answer to the honourable member’s question:

(1) and (2) The Department of Communications, Information Technology and the Arts has made grants to the national or state territory branches of the following:

<table>
<thead>
<tr>
<th>Grant Made To</th>
<th>Purpose</th>
<th>Date of Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Australian Chamber of Commerce and Industry</td>
<td>The objective of the project was to raise the awareness of the benefits of e-commerce in the Tasmanian micro Business sector</td>
<td>In the financial year 2003-04, as part of a successful bid for funding under the Networking the Nation (NTN) Pro-</td>
</tr>
<tr>
<td>The Tasmanian Chamber of Commerce and Industry</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Grant Made To     | Purpose                                                                 | Date of Payment                                                                 |
------------------|-------------------------------------------------------------------------|----------------------------------------------------------------------------------|
Commerce and Industry (State Branch of the Australian Chamber of Commerce) | Business sector, and provide an incentive scheme for this sector to take up Information Communications Technology. |  |
The National Farmer’s Federation | The objective of the project was to increase the provision of cheaper online access in rural Australia through strategic installation of a number of Points of Presence, and extensive trialling of alternative technologies. The project also included tailored training and support. |  |
Australian Chamber of Commerce and Industry - grant was made by the former NOIE (relevant responsibilities assumed by DCITA) | Promotion of e-business | $90,000 paid on 28/11/03 and $10,000 paid on 30/04/04 |

**Immigration and Multicultural and Indigenous Affairs: Staffing**

(Question No. 1635)

**Mr Bowen** asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, in writing, on 31 May 2005:

1. How many of the Minister’s department’s staff were employed at the Senior Executive Band 1 level in (a) 1996, (b) 1997, (c) 1998, (d) 1999, (e) 2000, (f) 2001, (g) 2002, (h) 2003, (i) 2004, and (j) 2005.

2. How many of the Minister’s department’s staff were paid at the Senior Executive Band 1 level in (a) 1996, (b) 1997, (c) 1998, (d) 1999, (e) 2000, (f) 2001, (g) 2002, (h) 2003, (i) 2004, and (j) 2005.

3. How many of the Minister’s department’s staff were employed at the Senior Executive Band 2 level in (a) 1996, (b) 1997, (c) 1998, (d) 1999, (e) 2000, (f) 2001, (g) 2002, (h) 2003, (i) 2004, and (j) 2005.

4. How many of the Minister’s department’s staff were paid at the Senior Executive Band 2 level in (a) 1996, (b) 1997, (c) 1998, (d) 1999, (e) 2000, (f) 2001, (g) 2002, (h) 2003, (i) 2004, and (j) 2005.

5. How many of the Minister’s department’s staff were employed at the Senior Executive Band 3 level in (a) 1996, (b) 1997, (c) 1998, (d) 1999, (e) 2000, (f) 2001, (g) 2002, (h) 2003, (i) 2004, and (j) 2005.

6. How many of the Minister’s department’s staff were paid at the Senior Executive Band 3 level in (a) 1996, (b) 1997, (c) 1998, (d) 1999, (e) 2000, (f) 2001, (g) 2002, (h) 2003, (i) 2004, and (j) 2005.

**Mr John Cobb**—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable member’s question:
(1) The following table gives the number of SES Band 1 employed at that level, including those on leave, at 30 June each year.

<table>
<thead>
<tr>
<th>Year</th>
<th>No of SESB1 employed by DIMIA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>28</td>
</tr>
<tr>
<td>1997</td>
<td>20</td>
</tr>
<tr>
<td>1998</td>
<td>25</td>
</tr>
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<td>1999</td>
<td>15</td>
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<td>2000</td>
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<td>2001</td>
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<td>2002</td>
<td>27</td>
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<tr>
<td>2003</td>
<td>32</td>
</tr>
<tr>
<td>2004</td>
<td>40</td>
</tr>
<tr>
<td>2005</td>
<td>54</td>
</tr>
</tbody>
</table>

(2) The following table gives the number of staff paid at the SES Band 1 level at 30 June each year, and reflects the outcome of leave and acting arrangements.

<table>
<thead>
<tr>
<th>Year</th>
<th>No of SESB1 paid by DIMIA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>32</td>
</tr>
<tr>
<td>1997</td>
<td>22</td>
</tr>
<tr>
<td>1998</td>
<td>24</td>
</tr>
<tr>
<td>1999</td>
<td>18</td>
</tr>
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<td>2000</td>
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</tr>
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<td>2001</td>
<td>30</td>
</tr>
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<td>2002</td>
<td>34</td>
</tr>
<tr>
<td>2003</td>
<td>33</td>
</tr>
<tr>
<td>2004</td>
<td>37</td>
</tr>
<tr>
<td>2005</td>
<td>67</td>
</tr>
</tbody>
</table>

(3) The following table gives the number of SES Band 2 employed at that level, including those on leave, at 30 June each year.

<table>
<thead>
<tr>
<th>Year</th>
<th>No of SESB2 employed by DIMIA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>6</td>
</tr>
<tr>
<td>1997</td>
<td>4</td>
</tr>
<tr>
<td>1998</td>
<td>5</td>
</tr>
<tr>
<td>1999</td>
<td>5</td>
</tr>
<tr>
<td>2000</td>
<td>2</td>
</tr>
<tr>
<td>2001</td>
<td>6</td>
</tr>
<tr>
<td>2002</td>
<td>10</td>
</tr>
<tr>
<td>2003</td>
<td>11</td>
</tr>
</tbody>
</table>
(4) The following table gives the number of staff paid at the SES Band 2 level at 30 June each year, and reflects the outcome of leave and acting arrangements.

<table>
<thead>
<tr>
<th>Year</th>
<th>No of SESB2 paid by DIMIA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>6</td>
</tr>
<tr>
<td>1997</td>
<td>6</td>
</tr>
<tr>
<td>1998</td>
<td>6</td>
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<tr>
<td>1999</td>
<td>6</td>
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<tr>
<td>2000</td>
<td>7</td>
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<td>2001</td>
<td>7</td>
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<tr>
<td>2002</td>
<td>12</td>
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<tr>
<td>2003</td>
<td>11</td>
</tr>
<tr>
<td>2004</td>
<td>12</td>
</tr>
<tr>
<td>2005</td>
<td>19</td>
</tr>
</tbody>
</table>

(5) The following table gives the number of SES Band 3 employed at that level, including those on leave, at 30 June each year.

<table>
<thead>
<tr>
<th>Year</th>
<th>No of SESB3 employed by DIMIA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>2</td>
</tr>
<tr>
<td>1997</td>
<td>1</td>
</tr>
<tr>
<td>1998</td>
<td>1</td>
</tr>
<tr>
<td>1999</td>
<td>0*</td>
</tr>
<tr>
<td>2000</td>
<td>3</td>
</tr>
<tr>
<td>2001</td>
<td>2</td>
</tr>
<tr>
<td>2002</td>
<td>2</td>
</tr>
<tr>
<td>2003</td>
<td>2</td>
</tr>
<tr>
<td>2004</td>
<td>2</td>
</tr>
<tr>
<td>2005</td>
<td>4</td>
</tr>
</tbody>
</table>

(6) The following table gives the number of staff paid at the SES Band 3 level at 30 June each year, and reflects the outcome of leave and acting arrangements.

<table>
<thead>
<tr>
<th>Year</th>
<th>No of SESB3 paid by DIMIA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>2</td>
</tr>
<tr>
<td>1997</td>
<td>1</td>
</tr>
<tr>
<td>1998</td>
<td>1</td>
</tr>
<tr>
<td>Year</td>
<td>No of SESB3 paid by DIMIA</td>
</tr>
<tr>
<td>------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>1999</td>
<td>0*</td>
</tr>
<tr>
<td>2000</td>
<td>1</td>
</tr>
<tr>
<td>2001</td>
<td>2</td>
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<tr>
<td>2002</td>
<td>2</td>
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<tr>
<td>2003</td>
<td>2</td>
</tr>
<tr>
<td>2004</td>
<td>2</td>
</tr>
<tr>
<td>2005</td>
<td>4</td>
</tr>
</tbody>
</table>

* During the 1998-99 financial year the SESB3 position was vacant. The previous incumbent left the Australian Public Service to undertake an appointment as Chief Executive Officer, ATSIC. The position was filled after the reporting date of 30 June 1999.

**Asylum Seekers**  
(Question No. 1704)

Mr Tanner asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, in writing, on 15 June 2005:

(1) When did the Government receive the report of the Penfold Inquiry into misuse of the judicial system by asylum seekers.

(2) When will the Government release this report.

(3) Why has the Government not yet released the report.

Mr John Cobb—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable member’s question:

(1) (2) and (3) These questions would be more appropriately answered by the Attorney-General who answered a similar question on Tuesday, 10 May 2005 (Question No. 903, House of Representatives Hansard page 368).

**Bearcage Productions**  
(Question No. 1733)

Mr Bowen asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, in writing, on 22 June 2005:

(1) Is the Minister aware that the department entered into a contract on 3 June 2005 with Bearcage Productions to the value of $60,200.

(2) What services are being provided under this contract.

Mr John Cobb—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable member’s question:

(1) and (2) In February 2005 a select tender process was conducted to seek proposals to develop a corporate video/s for the Office of the Registrar of Aboriginal Corporations (ORAC). Three proposals were received and assessed against set selection criteria and in June 2005 Bearcage Productions was chosen as the successful tenderer.

Under the contract, Bearcage Productions will provide film and television services to produce the corporate video/s. This includes provision of a video concept, script development and filming of Indigenous corporations in four or five localities. In addition, Bearcage Productions will provide post production support and language conversion options. Also included is website conversion of
materials and copies of the corporate video/s in a range of audio visual formats for distribution and use.

The aim of the corporate video/s is to communicate a range of information and training services to target audiences, including corporations in remote areas. Specifically, the video/s is intended to:

• raise awareness of ORAC’s role, responsibilities and support services amongst its current client base, including the need for responsible incorporation;

• make ORAC information and training services more widely understood among clients, stakeholders, and the wider public;

• highlight key corporate governance issues, in an interesting and non literary form that can be used in information and training sessions;

• raise awareness of and prepare for the implementation of the new Corporations (Aboriginal and Torres Strait Islander) Bill, currently before Parliament; and

• provide a new and useful video for application by ORAC and also other information and training providers, government and non-government agencies.

A key strategy underpinning the development of the corporate video/s is to showcase Aboriginal and Torres Strait Islander boards, members and key staff communicating good corporate governance messages and practices, and the services ORAC provides, to other Indigenous peoples and corporations in a visual format using the language most suited to the target audiences.

Alexander J Dodd and Associates
(Question No. 1735)

Mr Bowen asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, in writing, on 22 June 2005:

(1) Is the Minister aware that the department entered into a contract on 20 May 2005 with Alexander J. Dodd and Associates to the value of $16,899.96.

(2) What services are being provided under this contract.

Mr John Cobb—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable member’s question:

(1) The Department did not enter into a contract with Alexander J. Dodd and Associates on the date stated for this or any other amount. Alexander J. Dodd and Associates submitted an invoice for payment of $16,900 dated 2 May 2005 for services provided under a pre existing contractual arrangement.

(2) This contract commenced on 30 June 2004 and expired on 30 June 2005 and was for the provision of services in relation to professional assistance and management support to develop and implement organisation change initiatives.

Graphic Design Companies
(Question No. 1774)

Mr Bowen asked the Minister for Human Services, in writing, on 23 June 2005:

Did the department or any agency under the Minister’s portfolio engage the services of a graphic design company to assist in the production of annual reports or other publications in 2004; if so, what was the name and postal address of each company engaged for this purpose and what sum was it paid.

Mr Hockey—The answer to the honourable member’s question is as follows:

Please refer to the answer provided by the Minister representing the Minister for Finance and Administration in response to Question on Notice 1032.
**Capitaine Tasman**  
*(Question No. 1915)*

Mr Martin Ferguson asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, in writing, on 9 August 2005:

1. Further to the answer to question No. 647 concerning the high risk of desertion and poor immigration record in Australia of the vessel, *Capitaine Tasman*, can the Minister say in which country the vessel is registered and flagged.

2. How many times has the vessel visited Australia over the last five years.

3. In respect of each visit by the vessel to Australia over the last five years, (a) from which port did it depart before arriving in Australia and which ports did it visit in Australia, (b) how many crew desertions occurred and from which countries did the deserters come, and (c) how many stowaways were on board and from which country did the stowaways come.

4. Has the department advised the Department of Transport and Regional Services of the poor migration record of the *Capitaine Tasman*.

5. What action can be taken to stop the vessel visiting Australia.

Mr John Cobb—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable member’s question:

1. The *Capitaine Tasman* is registered and flagged in Tonga.

2. The vessel has visited Australia a total of forty-one times from February 2002 to July 2005 (thirty-nine times as the *Capitaine Tasman* and twice under its previous name *Fua Kavenga II*). It is not recorded as having arrived before this time.

3. (a) For voyages to Australia, the *Capitaine Tasman* departed from Lautoka thirty-three times, Suva six times (twice under the name *Fua Kavenga II*) and once from both Savusavu and Nuku’alofa. For each voyage the vessel visited the ports of Brisbane, Sydney and Melbourne.

   (b) Since February 2002, a total of ten crew deserted the *Capitaine Tasman* on seven separate occasions. All ten deserters were Tongan nationals.

   (c) Since February 2002, a total of three stowaways arrived in Australia on the *Capitaine Tasman*. All three stowaways were Fijian nationals.

4. Yes.

5. There is no authority under the Migration Act 1958 to stop the *Capitaine Tasman* visiting Australia. The Maritime Transport and Offshore Facilities Security Act 2003 includes a number of mechanisms through which a vessel can be denied entry to an Australian port, which is a matter for the Department of Transport and Regional Services.

**Knowledge Consulting**  
*(Question No. 1991)*

Mr Bowen asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, in writing, on 10 August 2005:

On 19 July 2005 did the Minister’s department engage Knowledge Consulting to provide one month’s consultancy services at a cost of $66,000. If so, what services are being obtained under the terms of this contract.

Mr John Cobb—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable member’s question:
Knowledge Consulting is a member of the Panel of Experts used by the Department of Immigration and Multicultural and Indigenous Affairs to assist it in the management of the Detention Services Contract. Members of the Panel are engaged by the Department to undertake monitoring of service delivery in areas requiring specialist or technical skills, such as health care or catering. The services being provided by Knowledge Consulting under the specific order dated 19 July 2005 are an audit of food services at Baxter Immigration Detention Facility. The estimated cost of this audit is $55,324 plus GST and expenses.

$66,000 was the Department’s original estimate of the total cost of the review, which was inserted in the purchase order.

Immigration and Multicultural and Indigenous Affairs: Secretary
(Question No. 2036)

Mr Kelvin Thomson asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, in writing, on 11 August 2005:

(1) Can the Minister confirm the report in the Canberra Times on 19 July that the new Secretary of the Department of Immigration and Multicultural and Indigenous Affairs, Mr Andrew Metcalfe (sic), made the statement that “there was one key message he wanted to pass on to staff and it went to the importance of ensuring that actions were lawful”; if so, why did the Secretary make the statement.

(2) Did staff of the department believe that they were above the law; if so, does the Minister accept responsibility for that situation.

Mr John Cobb—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable member’s question:

(1) The Canberra Times article of 19 July referred to the Secretary, Mr Andrew Metcalfe’s, first email to all staff. In this email, distributed on Monday 18 July, the Secretary said:

There is one other key message I want to pass on to you here and now, right at the beginning of my time heading the Department. And that goes to the importance of reassuring ourselves that our actions are lawful. It is the one absolute requirement in a complex decision-making environment... If any of you ever believe that we have not acted lawfully in reaching a decision, in relation to visas or other applications, or in detaining a person or in removing them from Australia, you must personally inform your Overseas Post Manager, State or Territory Director or Branch Head in Central Office immediately. They in turn must obtain legal advice and, as appropriate, advise both the Minister’s office and myself or the relevant Deputy Secretary, and take personal responsibility for properly resolving the situations. I cannot stress this requirement too highly.

The Secretary has subsequently followed up this email with other all staff communications, outlining the same key message. His intention is to ensure that all staff are aware of the importance of acting legally and understand the procedures for escalating concerns.

(2) No.

HECS Contributions
(Question No. 2048)

Mr Jenkins asked the Minister for Education, Science and Training, in writing, on 16 August 2005:

(1) How many people with an outstanding or accumulated HECS debt reside in the postcode area (a) 3074, (b) 3075, (c) 3076, (d) 3082, (e) 3083, (f) 3087, (g) 3088, (h) 3089, (i) 3090, (j) 3091, and (k) 3752 at 30 June 2004.
(2) How many people with an outstanding or accumulated HECS debt not enrolled in tertiary studies reside in the postcode area (a) 3074, (b) 3075, (c) 3076, (d) 3082, (e) 3083, (f) 3087, (g) 3088, (h) 3089, (i) 3090, (j) 3091, and (k) 3752 at 30 June 2004.

(3) What is the sum of outstanding or accumulated HECS debt of people that reside in the postcode area (a) 3074, (b) 3075, (c) 3076, (d) 3082, (e) 3083, (f) 3087, (g) 3088, (h) 3089, (i) 3090, (j) 3091, and (k) 3752 at 30 June 2004.

Dr Nelson—The answer to the honourable member’s question is as follows:
The requested data were provided in response to House of Representatives Question No. 0095 on 10 May 2005.
**Non-Government Schools**  
(Question No. 2144)

Mr Brendan O'Connor asked the Minister for Education, Science and Training, in writing, on 18 August 2005:

What sum in General Recurrent Grants was granted to each non-government school in (a) 2003, (b) 2004, (c) 2005, in the postcode area (i) 3337, (ii) 3338, (iii) 3435, (iv) 3437, (v) 3438, (vi) 3440, (vii) 3441, and (viii) 3442.

Dr Nelson—The answer to the honourable member’s question is as follows:

<table>
<thead>
<tr>
<th>School Name</th>
<th>Location Suburb</th>
<th>Post-code</th>
<th>Systemic or Non-systemic</th>
<th>2003 Annual Entitlement</th>
<th>2004 Annual Entitlement</th>
<th>2005 Estimated Entitlement*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>St Dominic’s Primary School</td>
<td>MELTON</td>
<td>3337</td>
<td>Victorian Catholic System</td>
<td>779,516</td>
<td>828,352</td>
<td>884,352</td>
</tr>
<tr>
<td>Catholic Regional College</td>
<td>MELTON WEST</td>
<td>3337</td>
<td>Victorian Catholic System</td>
<td>2,079,991</td>
<td>2,277,333</td>
<td>2,330,130</td>
</tr>
<tr>
<td>Mowbray College</td>
<td>MELTON</td>
<td>3337</td>
<td>non-systemic</td>
<td>5,491,550</td>
<td>5,998,185</td>
<td>6,242,931</td>
</tr>
<tr>
<td>St Catherine’s School</td>
<td>MELTON WEST</td>
<td>3337</td>
<td>Victorian Catholic System</td>
<td>801,301</td>
<td>903,791</td>
<td>903,791</td>
</tr>
<tr>
<td>Melton Centre – campus of Glenvale</td>
<td>MELTON</td>
<td>3337</td>
<td>non-systemic</td>
<td>1,102,747</td>
<td>2,059,265</td>
<td>1,875,374</td>
</tr>
<tr>
<td>School, Glenroy</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>St Anthony’s Primary School</td>
<td>MELTON SOUTH</td>
<td>3338</td>
<td>Victorian Catholic System</td>
<td>609,316</td>
<td>632,358</td>
<td>660,573</td>
</tr>
<tr>
<td>Melton Christian College</td>
<td>MELTON SOUTH</td>
<td>3338</td>
<td>non-systemic (systemic in 2003)</td>
<td>917,385</td>
<td>1,067,148</td>
<td>1,067,148</td>
</tr>
<tr>
<td>St Mary’s Primary School</td>
<td>LANCEFIELD</td>
<td>3435</td>
<td>Victorian Catholic System</td>
<td>592,296</td>
<td>665,640</td>
<td>665,640</td>
</tr>
<tr>
<td>St Brigid’s Primary School</td>
<td>GISBORNE</td>
<td>3437</td>
<td>Victorian Catholic System</td>
<td>636,548</td>
<td>684,130</td>
<td>684,130</td>
</tr>
<tr>
<td>Holy Cross Primary School</td>
<td>NEW GISBORNE</td>
<td>3438</td>
<td>Victorian Catholic System</td>
<td>882,316</td>
<td>913,406</td>
<td>913,406</td>
</tr>
<tr>
<td>Gisborne Montessori School</td>
<td>NEW GISBORNE</td>
<td>3438</td>
<td>non-systemic</td>
<td>44,999</td>
<td>61,834</td>
<td>74,776</td>
</tr>
<tr>
<td>Macedon Grammar School Co-Op Ltd</td>
<td>MACEDON</td>
<td>3440</td>
<td>non-systemic</td>
<td>407,345</td>
<td>471,861</td>
<td>482,301</td>
</tr>
<tr>
<td>St Ambrose’s Primary School</td>
<td>WOODEND</td>
<td>3442</td>
<td>Victorian Catholic System</td>
<td>765,900</td>
<td>780,278</td>
<td>780,278</td>
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<tr>
<td>School Name</td>
<td>Location Suburb</td>
<td>Post-code</td>
<td>Systemic or Non-systemic</td>
<td>2003 Annual Entitlement</td>
<td>2004 Annual Entitlement</td>
<td>2005 Estimated Entitlement*</td>
</tr>
<tr>
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</tr>
<tr>
<td>Braemar College</td>
<td>WOODEND</td>
<td>3442</td>
<td>Victorian Ecumenical System</td>
<td>$2,792,636</td>
<td>$3,115,604</td>
<td>$3,115,604</td>
</tr>
</tbody>
</table>

Notes

(i) The funding amounts listed as entitlements for systemic schools are the amounts attracted to the system office in respect of those schools. The system allocates funding to its member schools according to need.

(ii) The entitlements for 2005 are estimated amounts based on 2004 Census enrolments and final 2004 per capita rates. The final amounts will not be available until the end of 2005.

(iii) The Melton Centre is a campus located in the nominated postcode. The entitlements reported are for the school as a whole.