INTERNET

Proof and Official Hansards for the House of Representatives, the Senate and committee hearings are available at http://www.aph.gov.au/hansard

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

SITTING DAYS—2006

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>7, 8, 9, 13, 14, 15, 16, 27, 28</td>
</tr>
<tr>
<td>March</td>
<td>1, 2, 27, 28, 29, 30</td>
</tr>
<tr>
<td>May</td>
<td>9, 10, 11, 22, 23, 24, 25, 29, 30, 31</td>
</tr>
<tr>
<td>June</td>
<td>1, 13, 14, 15, 19, 20, 21, 22</td>
</tr>
<tr>
<td>August</td>
<td>8, 9, 10, 14, 15, 16, 17</td>
</tr>
<tr>
<td>September</td>
<td>4, 5, 6, 7, 11, 12, 13, 14</td>
</tr>
<tr>
<td>October</td>
<td>9, 10, 11, 12, 16, 17, 18, 19, 30, 31</td>
</tr>
<tr>
<td>November</td>
<td>1, 2, 27, 28, 29, 30</td>
</tr>
<tr>
<td>December</td>
<td>4, 5, 6, 7</td>
</tr>
</tbody>
</table>

RADIO BROADCASTS

Broadcasts of proceedings of the Parliament can be heard on the following Parliamentary and News Network radio stations, in the areas identified.

- **CANBERRA**: 103.9 FM
- **SYDNEY**: 630 AM
- **NEWCASTLE**: 1458 AM
- **GOSFORD**: 98.1 FM
- **BRISBANE**: 936 AM
- **GOLD COAST**: 95.7 FM
- **MELBOURNE**: 1026 AM
- **ADELAIDE**: 972 AM
- **PERTH**: 585 AM
- **HOBART**: 747 AM
- **NORTHERN TASMANIA**: 92.5 FM
- **DARWIN**: 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—FIFTH 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 Phillip Anthony Barresi, 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
Chief Whip—Mr John Alexander Forrest MP
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
<table>
<thead>
<tr>
<th>Member</th>
<th>Division</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abbott, Hon. Anthony John</td>
<td>Warringah, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Adams, Hon. Dick Godfrey Harry</td>
<td>Lyons, TAS</td>
<td>ALP</td>
</tr>
<tr>
<td>Albanese, Anthony Norman</td>
<td>Grayndler, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Anderson, Hon. John Duncan</td>
<td>Gwydir, NSW</td>
<td>Nats</td>
</tr>
<tr>
<td>Andrew, Peter James</td>
<td>Calare, NSW</td>
<td>Ind</td>
</tr>
<tr>
<td>Andrews, Hon. Kevin James</td>
<td>Menzies, VIC</td>
<td>LP</td>
</tr>
<tr>
<td>Bailey, Hon. Frances Esther</td>
<td>McEwen, VIC</td>
<td>LP</td>
</tr>
<tr>
<td>Baird, Hon. Bruce George</td>
<td>Cook, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Baker, Mark Horden</td>
<td>Braddon, TAS</td>
<td>LP</td>
</tr>
<tr>
<td>Baldwin, Hon. Robert Charles</td>
<td>Paterson, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Barresi, Phillip Anthony</td>
<td>Deakin, VIC</td>
<td>LP</td>
</tr>
<tr>
<td>Bartlett, Kerry Joseph</td>
<td>Macquarie, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Beazley, Hon. Kim Christian</td>
<td>Brand, WA</td>
<td>ALP</td>
</tr>
<tr>
<td>Bevis, Hon. Archibald Ronald</td>
<td>Brisbane, QLD</td>
<td>ALP</td>
</tr>
<tr>
<td>Billson, Hon. Bruce Fredrick</td>
<td>Dunkley, VIC</td>
<td>LP</td>
</tr>
<tr>
<td>Bird, Sharon</td>
<td>Cunningham, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Bishop, Hon. Bronwyn Kathleen</td>
<td>Mackellar, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Bishop, Hon. Julie Isabel</td>
<td>Curtin, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Bowen, Christopher Eyles</td>
<td>Prospect, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Broadbent, Russell Evan</td>
<td>McMillan, VIC</td>
<td>LP</td>
</tr>
<tr>
<td>Brough, Hon. Malcolm Thomas</td>
<td>Longman, QLD</td>
<td>LP</td>
</tr>
<tr>
<td>Burke, Anna Elizabeth</td>
<td>Chisholm, VIC</td>
<td>ALP</td>
</tr>
<tr>
<td>Burke, Anthony Stephen</td>
<td>Watson, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Byrne, Anthony Michael</td>
<td>Holt, VIC</td>
<td>ALP</td>
</tr>
<tr>
<td>Cadman, Hon. Alan Glyndwr</td>
<td>Mitchell, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Cauley, Hon. Ian Raymond</td>
<td>Page, NSW</td>
<td>Nats</td>
</tr>
<tr>
<td>Ciobo, Steven Michele</td>
<td>Moncrieff, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Cobb, Hon. John Kenneth</td>
<td>Parkes, NSW</td>
<td>Nats</td>
</tr>
<tr>
<td>Corcoran, Ann Kathleen</td>
<td>Isaacs, VIC</td>
<td>ALP</td>
</tr>
<tr>
<td>Costello, Hon. Peter Howard</td>
<td>Higgins, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Crean, Hon. Simon Findlay</td>
<td>Hotham, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Danby, Michael</td>
<td>Melbourne Ports, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Downer, Hon. Alexander John Gosse</td>
<td>Mayo, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Draper, Patricia</td>
<td>Makin, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Dutton, Hon. Peter Craig</td>
<td>Dickson, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Edwards, Hon. Graham John</td>
<td>Cowan, WA</td>
<td>ALP</td>
</tr>
<tr>
<td>Elliot, Maria Justine</td>
<td>Richmond, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Ellis, Annette Louise</td>
<td>Canberra, ACT</td>
<td>ALP</td>
</tr>
<tr>
<td>Ellis, Katherine Margaret</td>
<td>Adelaide, SA</td>
<td>ALP</td>
</tr>
<tr>
<td>Elson, Kay Selma</td>
<td>Forde, QLD</td>
<td>LP</td>
</tr>
<tr>
<td>Emerson, Craig Anthony</td>
<td>Rankin, Qld</td>
<td>ALP</td>
</tr>
<tr>
<td>Entschn, Hon. Warren George</td>
<td>Leichhardt, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Farmer, Hon. Patrick Francis</td>
<td>Macarthur, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Fawcett, David Julian</td>
<td>Wakefield, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Ferguson, Laurence Donald Thomas</td>
<td>Reid, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Ferguson, Martin John, AM</td>
<td>Batman, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Ferguson, Michael Durrell</td>
<td>Bass, TAS</td>
<td>LP</td>
</tr>
</tbody>
</table>
### Members of the House of Representatives

<table>
<thead>
<tr>
<th>Member</th>
<th>Division</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fitzgibbon, Joel Andrew</td>
<td>Hunter, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Forrest, John Alexander</td>
<td>Mallee, VIC</td>
<td>Nats</td>
</tr>
<tr>
<td>Gambaro, Hon. Teresa</td>
<td>Petrie, QLD</td>
<td>LP</td>
</tr>
<tr>
<td>Garrett, Peter Robert, AM</td>
<td>Kingsford Smith, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Gash, Joanna</td>
<td>Gilmore, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Georganas, Steven</td>
<td>Hindmarsh, SA</td>
<td>ALP</td>
</tr>
<tr>
<td>George, Jennie</td>
<td>Throsby, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Georgiou, Petro</td>
<td>Kooyong, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Gibbons, Stephen William</td>
<td>Bendigo, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Gillard, Julia Eileen</td>
<td>Lalor, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Grierson, Sharon Joy</td>
<td>Newcastle, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Griffin, Alan Peter</td>
<td>Bruce, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Haase, Barry Wayne</td>
<td>Kalgoorlie, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Hall, Jill Griffiths</td>
<td>Shortland, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Hardgrave, Hon. Gary Douglas</td>
<td>Moreton, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Hartsuyker, Luke</td>
<td>Cowper, NSW</td>
<td>Nats</td>
</tr>
<tr>
<td>Hatton, Michael John</td>
<td>Blaxland, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Hawker, Hon. David Peter Maxwell</td>
<td>Wannon, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Hayes, Christopher Patrick</td>
<td>Werrinia, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Henry, Stuart</td>
<td>Hasluck, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Hoare, Kelly Joy</td>
<td>Charlton, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Hockey, Hon. Joseph Benedict</td>
<td>North Sydney, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Howard, Hon. John Winston</td>
<td>Bennelong, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Hull, Kay Elizabeth</td>
<td>Riverina, NSW</td>
<td>Nats</td>
</tr>
<tr>
<td>Hunt, Hon. Gregory Andrew</td>
<td>Flinders, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Irwin, Julia Claire</td>
<td>Fowler, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Jenkins, Henry Alfred</td>
<td>Scullin, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Jensen, Dennis Geoffrey</td>
<td>Tangney, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Johnson, Michael Andrew</td>
<td>Ryan, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Jull, Hon. David Francis</td>
<td>Fadden, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Katter, Hon. Robert Carl</td>
<td>Kennedy, Qld</td>
<td>Ind</td>
</tr>
<tr>
<td>Keenan, Michael Fayat</td>
<td>Stirling, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Kelly, Hon. De-Anne Margaret</td>
<td>Dawson, Qld</td>
<td>Nats</td>
</tr>
<tr>
<td>Kelly, Hon. Jacqueline Marie</td>
<td>Lindsay, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Kerr, Hon. Duncan James Colquhoun, SC</td>
<td>Denison, Tas</td>
<td>ALP</td>
</tr>
<tr>
<td>King, Catherine Fiona</td>
<td>Ballarat, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Laming, Andrew Charles</td>
<td>Bowman, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Lawrence, Hon. Carmen Mary</td>
<td>Fremantle, WA</td>
<td>ALP</td>
</tr>
<tr>
<td>Ley, Hon. Susan Penelope</td>
<td>Farrar, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Lindsay, Peter John</td>
<td>Herbert, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Livermore, Kirsten Fiona</td>
<td>Capricornia, Qld</td>
<td>ALP</td>
</tr>
<tr>
<td>Lloyd, Hon. James Eric</td>
<td>Robertson, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Macfarlane, Hon. Ian Elgin</td>
<td>Groom, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Macklin, Jennifer Louise</td>
<td>Jagajaga, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Markus, Louise Elizabeth</td>
<td>Greenway, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>May, Margaret Ann</td>
<td>McPherson, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>McArthur, Fergus Stewart</td>
<td>Corangamite, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>McClelland, Robert Bruce</td>
<td>Barton, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Member</td>
<td>Division</td>
<td>Party</td>
</tr>
<tr>
<td>------------------------------</td>
<td>-----------</td>
<td>---------</td>
</tr>
<tr>
<td>McCAurran, Hon. Peter John</td>
<td>Gippsland, Vic</td>
<td>Nats</td>
</tr>
<tr>
<td>McBulun, Robert Francis</td>
<td>Fraser, ACT</td>
<td>ALP</td>
</tr>
<tr>
<td>Melham, Daryl</td>
<td>Banks, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Moylan, Hon. Judith Eleanor</td>
<td>Pearce, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Murphy, John Paul</td>
<td>Lowe, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Nairn, Hon. Gary Roy</td>
<td>Eden-Monaro, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Nelson, Hon. Brendan John</td>
<td>Bradfield, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Neville, Paul Christopher</td>
<td>Hinkler, Qld</td>
<td>Nats</td>
</tr>
<tr>
<td>O’Connor, Brendan Patrick John</td>
<td>Gorton, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>O’Connor, Gavan Michael</td>
<td>Corio, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Owens, Julie Ann</td>
<td>Parramatta, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Panopoulos, Sophie</td>
<td>Indi, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Pearce, Hon. Christopher John</td>
<td>Aston, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Pilbersek, Tanya Joan</td>
<td>Sydney, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Price, Hon. Leo Roger Spurway</td>
<td>Chifley, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Prosser, Hon. Geoffrey Daniel</td>
<td>Forrest, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Pyne, Hon. Christopher Maurice</td>
<td>Sturt, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Quick, Harry Vernon</td>
<td>Franklin, Tas</td>
<td>ALP</td>
</tr>
<tr>
<td>Randall, Don James</td>
<td>Canning, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Richardson, Kym</td>
<td>Kingston, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Ripoll, Bernard Fernando</td>
<td>Oxley, Qld</td>
<td>ALP</td>
</tr>
<tr>
<td>Robb, Hon. Andrew John</td>
<td>Goldstein, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Roxon, Nicola Louise</td>
<td>Gellibrand, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Rudd, Kevin Michael</td>
<td>Griffith, Qld</td>
<td>ALP</td>
</tr>
<tr>
<td>Ruddock, Hon. Philip Maxwell</td>
<td>Berowra, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Sawford, Rodney Weston</td>
<td>Port Adelaide, SA</td>
<td>ALP</td>
</tr>
<tr>
<td>Schultz, Albert John</td>
<td>Hume, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Scott, Hon. Bruce Craig</td>
<td>Maranoa, Qld</td>
<td>Nats</td>
</tr>
<tr>
<td>Secker, Patrick Damien</td>
<td>Barker, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Sercombe, Robert Charles Grant</td>
<td>Maribyrnong, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Slipper, Hon. Peter Neil</td>
<td>Fisher, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Smith, Anthony David Hawthorn</td>
<td>Casey, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Smith, Stephen Francis</td>
<td>Perth, WA</td>
<td>ALP</td>
</tr>
<tr>
<td>Snowdon, Hon. Warren Edward</td>
<td>Lingiari, NT</td>
<td>ALP</td>
</tr>
<tr>
<td>Somlyay, Hon. Alexander Michael</td>
<td>Fairfax, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Southcott, Andrew John</td>
<td>Boothby, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Stone, Hon. Sharman Nancy</td>
<td>Murray, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Swan, Wayne Maxwell</td>
<td>Lilley, Qld</td>
<td>ALP</td>
</tr>
<tr>
<td>Tanner, Lindsay James</td>
<td>Melbourne, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Thompson, Cameron Paul</td>
<td>Blair, QLD</td>
<td>LP</td>
</tr>
<tr>
<td>Thomson, Kelvin John</td>
<td>Wills, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Ticehurst, Kenneth Vincent</td>
<td>Dobell, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Tollner, David William</td>
<td>Solomon, NT</td>
<td>CLP</td>
</tr>
<tr>
<td>Truss, Hon. Warren Errol</td>
<td>Wide Bay, QLD</td>
<td>Nats</td>
</tr>
<tr>
<td>Tuckey, Hon. Charles Wilson</td>
<td>O’Connor, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Turnbull, Hon. Malcolm Bligh</td>
<td>Wentworth, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Vaile, Hon. Mark Anthony James</td>
<td>Lyne, NSW</td>
<td>Nats</td>
</tr>
<tr>
<td>Vale, Hon. Danna Sue</td>
<td>Hughes, NSW</td>
<td>LP</td>
</tr>
</tbody>
</table>
### Members of the House of Representatives

<table>
<thead>
<tr>
<th>Member</th>
<th>Division</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vamvakinou, Maria</td>
<td>Calwell, VIC</td>
<td>ALP</td>
</tr>
<tr>
<td>Vasta, Ross Xavier</td>
<td>Bonner, QLD</td>
<td>LP</td>
</tr>
<tr>
<td>Wakelin, Barry Hugh</td>
<td>Grey, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Washer, Malcolm James</td>
<td>Moore, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Wilkie, Kim William</td>
<td>Swan, WA</td>
<td>ALP</td>
</tr>
<tr>
<td>Windsor, Antony Harold Curties</td>
<td>New England, NSW</td>
<td>Ind</td>
</tr>
<tr>
<td>Wood, Jason Peter</td>
<td>La Trobe, VIC</td>
<td>LP</td>
</tr>
</tbody>
</table>

**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
<table>
<thead>
<tr>
<th>Role</th>
<th>Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prime Minister</td>
<td>The Hon. John Winston Howard MP</td>
</tr>
<tr>
<td>Minister for Trade and Deputy Prime Minister</td>
<td>The Hon. Mark Anthony James Vaile MP</td>
</tr>
<tr>
<td>Treasurer</td>
<td>The Hon. Peter Howard Costello MP</td>
</tr>
<tr>
<td>Minister for Transport and Regional Services</td>
<td>The Hon. Warren Errol Truss MP</td>
</tr>
<tr>
<td>Minister for Defence</td>
<td>The Hon. Dr Brendan John Nelson MP</td>
</tr>
<tr>
<td>Minister for Foreign Affairs</td>
<td>The Hon. Alexander John Gosse Downer MP</td>
</tr>
<tr>
<td>Minister for Health and Ageing and Leader of the House</td>
<td>The Hon. Anthony John Abbott MP</td>
</tr>
<tr>
<td>Attorney-General</td>
<td>The Hon. Philip Maxwell Ruddock MP</td>
</tr>
<tr>
<td>Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council</td>
<td>Senator the Hon. Nicholas Hugh Minchin</td>
</tr>
<tr>
<td>Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House</td>
<td>The Hon. Peter John McGauran MP</td>
</tr>
<tr>
<td>Minister for Immigration and Multicultural Affairs</td>
<td>Senator the Hon. Amanda Eloise Vvanstone</td>
</tr>
<tr>
<td>Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues</td>
<td>The Hon. Julie Isabel Bishop MP</td>
</tr>
<tr>
<td>Minister for Family, Community Services and Indigenous Affairs</td>
<td>The Hon. Malcolm Thomas Brough MP</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for Indigenous Affairs</td>
<td></td>
</tr>
<tr>
<td>Minister for Industry, Tourism and Resources</td>
<td>The Hon. Ian Elgin Macfarlane MP</td>
</tr>
<tr>
<td>Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service</td>
<td>The Hon. Kevin James Andrews MP</td>
</tr>
<tr>
<td>Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate</td>
<td>Senator the Hon. Helen Lloyd Coonan</td>
</tr>
<tr>
<td>Minister for the Environment and Heritage</td>
<td>Senator the Hon. Ian Gordon Campbell</td>
</tr>
</tbody>
</table>

(The above ministers constitute the cabinet)
### HOWARD MINISTRY—continued

<table>
<thead>
<tr>
<th>Position</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minister for Justice and Customs and Manager of Government Business in the Senate</td>
<td>Senator the Hon. Christopher Martin Ellison</td>
</tr>
<tr>
<td>Minister for Fisheries, Forestry and Conservation</td>
<td>Senator the Hon. Eric Abetz</td>
</tr>
<tr>
<td>Minister for the Arts and Sport</td>
<td>Senator the Hon. Charles Roderick Kemp</td>
</tr>
<tr>
<td>Minister for Human Services</td>
<td>The Hon. Joseph Benedict Hockey MP</td>
</tr>
<tr>
<td>Minister for Community Affairs</td>
<td>The Hon. John Kenneth Cobb MP</td>
</tr>
<tr>
<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Peter Craig Dutton MP</td>
</tr>
<tr>
<td>Special Minister of State</td>
<td>The Hon. Gary Roy Nairn MP</td>
</tr>
<tr>
<td>Minister for Vocational and Technical Education and Minister Assisting the Prime Minister</td>
<td>The Hon. Gary Douglas Hardgrave MP</td>
</tr>
<tr>
<td>Minister for Ageing</td>
<td>Senator the Hon. Santo Santoro</td>
</tr>
<tr>
<td>Minister for Small Business and Tourism</td>
<td>The Hon. Frances Esther Bailey MP</td>
</tr>
<tr>
<td>Minister for Local Government, Territories and Roads</td>
<td>The Hon. James Eric Lloyd MP</td>
</tr>
<tr>
<td>Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence</td>
<td>The Hon. Bruce Frederick Billson MP</td>
</tr>
<tr>
<td>Minister for Workforce Participation</td>
<td>The Hon. Dr Sharman Nancy Stone MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Finance and Administration</td>
<td>Senator the Hon. Richard Mansell Colbeck</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Industry, Tourism and Resources</td>
<td>The Hon. Robert Charles Baldwin MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Health and Ageing</td>
<td>The Hon. Christopher Maurice Pyne MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Defence</td>
<td>Senator the Hon. John Alexander Lindsay (Sandy) Macdonald</td>
</tr>
<tr>
<td>Parliamentary Secretary (Trade)</td>
<td>The Hon. De-Anne Margaret Kelly MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs</td>
<td>The Hon. Andrew John Robb MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon. Malcolm Bligh Turnbull MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon. Christopher John Pearce MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for the Environment and Heritage</td>
<td>The Hon. Gregory Andrew Hunt MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry</td>
<td>The Hon. Sussan Penelope Ley MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Education, Science and Training</td>
<td>The Hon. Patrick Francis Farmer MP</td>
</tr>
<tr>
<td>Parliamentary Secretary (Foreign Affairs)</td>
<td>The Hon. Teresa Gambaro MP</td>
</tr>
</tbody>
</table>
SHADOW MINISTRY

Leader of the Opposition
Deputy Leader of the Opposition and Shadow Minister for Education, Training, Science and Research
Leader of the Opposition in the Senate, Shadow Minister for Indigenous Affairs and Shadow Minister for Family and Community Services
Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology
Shadow Minister for Health and Manager of Opposition Business in the House
Shadow Treasurer
Shadow Attorney-General
Shadow Minister for Industry, Infrastructure and Industrial Relations
Shadow Minister for Foreign Affairs and Trade and Shadow Minister for International Security
Shadow Minister for Defence
Shadow Minister for Regional Development
Shadow Minister for Primary Industries, Resources, Forestry and Tourism
Shadow Minister for Environment and Heritage, Shadow Minister for Water and Deputy Manager of Opposition Business in the House
Shadow Minister for Housing, Shadow Minister for Urban Development and Shadow Minister for Local Government and Territories
Shadow Minister for Public Accountability and Shadow Minister for Human Services
Shadow Minister for Finance
Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services
Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women
Shadow Minister for Employment and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility

(The above are shadow cabinet ministers)
<table>
<thead>
<tr>
<th>Shadow Ministry Role</th>
<th>Shadow Minister Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shadow Minister for Consumer Affairs and</td>
<td>Laurie Donald Thomas Ferguson MP</td>
</tr>
<tr>
<td>Shadow Minister for Population Health and</td>
<td></td>
</tr>
<tr>
<td>Health Regulation</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Agriculture and Fisheries</td>
<td>Gavan Michael O’Connor MP</td>
</tr>
<tr>
<td>Shadow Assistant Treasurer, Shadow Minister for</td>
<td>Joel Andrew Fitzgibbon MP</td>
</tr>
<tr>
<td>Revenue and Shadow Minister for Small Business and Competition</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Transport</td>
<td>Senator Kerry Williams Kelso O’Brien</td>
</tr>
<tr>
<td>Shadow Minister for Sport and Recreation</td>
<td>Senator Kate Alexandra Lundy</td>
</tr>
<tr>
<td>Shadow Minister for Homeland Security and</td>
<td>The Hon. Archibald Ronald Bevis MP</td>
</tr>
<tr>
<td>Shadow Minister for Aviation and Transport Security</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Veterans’ Affairs and</td>
<td>Alan Peter Griffin MP</td>
</tr>
<tr>
<td>Shadow Special Minister of State</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Defence Industry,</td>
<td>Senator Thomas Mark Bishop</td>
</tr>
<tr>
<td>Procurement and Personnel</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Immigration</td>
<td>Anthony Stephen Burke MP</td>
</tr>
<tr>
<td>Shadow Minister for Aged Care, Disabilities and</td>
<td>Senator Jan Elizabeth McLucas</td>
</tr>
<tr>
<td>Carers</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Justice and Customs and</td>
<td>Senator Joseph William Ludwig</td>
</tr>
<tr>
<td>Manager of Opposition Business in the Senate</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Overseas Aid and Pacific Island Affairs</td>
<td>Robert Charles Grant Sercombe MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Reconciliation and the Arts</td>
<td>Peter Robert Garrett MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td>John Paul Murphy MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Defence and</td>
<td>The Hon. Graham John Edwards MP</td>
</tr>
<tr>
<td>Veterans’ Affairs</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Education</td>
<td>Kirsten Fiona Livermore MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Environment and Heritage</td>
<td>Jennie George MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Industry,</td>
<td>Bernard Fernando Ripoll MP</td>
</tr>
<tr>
<td>Infrastructure and Industrial Relations</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Immigration</td>
<td>Ann Kathleen Corcoran MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Treasury</td>
<td>Catherine Fiona King MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Science and Water</td>
<td>Senator Ursula Mary Stephens</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs</td>
<td>The Hon. Warren Edward Snowdon MP</td>
</tr>
</tbody>
</table>

ix
### CONTENTS

**TUESDAY, 28 FEBRUARY**

**CHAMBER**

Questions Without Notice—
- Mr Trevor Flugge ............................................................................................................... 1
- Economy ............................................................................................................................... 1
- Distinguished Visitors ......................................................................................................... 2

Questions Without Notice—
- Oil for Food Program ........................................................................................................ 2
- Oil for Food Program ......................................................................................................... 2
- Oil for Food Program ......................................................................................................... 3
- Illegal Fishing .................................................................................................................... 4
- Distinguished Visitors ....................................................................................................... 5

Questions Without Notice—
- Oil for Food Program ........................................................................................................ 5
- Trade ................................................................................................................................... 5
- Oil for Food Program ......................................................................................................... 7
- Distinguished Visitors ....................................................................................................... 7

Questions Without Notice—
- Aviation ............................................................................................................................ 7
- Oil for Food Program ......................................................................................................... 8
- Health Insurance ................................................................................................................ 9
- Oil for Food Program ......................................................................................................... 11
- Education: Queensland ....................................................................................................... 12
- Oil for Food Program ......................................................................................................... 13
- Political Donations ............................................................................................................ 13
- Oil for Food Program ......................................................................................................... 15
- Trade: Exports ................................................................................................................... 16
- Oil for Food Program ......................................................................................................... 17

Prime Minister ...................................................................................................................... 18

Minister for Foreign Affairs—
- Censure Motion ............................................................................................................... 18
- Personal Explanations ........................................................................................................ 25
- Legislative Assembly of the Northern Territory .................................................................. 26

Auditor-General’s Reports—
- Report No. 30 of 2005-06 ............................................................................................... 26

Documents .......................................................................................................................... 26

Questions to the Speaker—
- Legislative Assembly of the Northern Territory ................................................................ 27

Matters of Public Importance—
- Oil for Food Program ....................................................................................................... 27

Committees—
- Membership ..................................................................................................................... 41

Business—
- Discharge of Orders of the Day ....................................................................................... 41
- Main Committee ................................................................................................................ 45
- Discharge of Orders of the Day ....................................................................................... 46

Energy Efficiency Opportunities Bill 2005—
- Consideration of Senate Message .................................................................................... 46

Census Information Legislation Amendment Bill 2005 ........................................................ 46
CONTENTS—continued

Trade Practices Amendment (Personal Injuries and Death) Bill 2004—
Return from the Senate ..................................................................................................... 46
Committees—
  Australian Crime Commission Committee—Membership ........................................... 46
  Selection Committee—Report....................................................................................... 46
Family Law Amendment (Shared Parental Responsibility) Bill 2005—
  Second Reading ............................................................................................................. 48
  Referred to Main Committee ....................................................................................... 70
Ministers of State Amendment Bill 2005—
  Second Reading ............................................................................................................. 70
  Third Reading ................................................................................................................ 85
Future Fund Bill 2005—
  Returned from the Senate ........................................................................................... 85
Telecommunications (Interception) Amendment Bill 2006—
  Second Reading ............................................................................................................. 85
Adjournment—
  Howard Government ..................................................................................................... 100
  Greenway Electorate: Sudanese Refugees ................................................................... 102
  United Nations ............................................................................................................. 103
  Australian Flag .............................................................................................................. 104
  Industry: Regulation ..................................................................................................... 105
  Australian Flag .............................................................................................................. 106
  Visas .............................................................................................................................. 107
Notices ............................................................................................................................. 108
MAIN COMMITTEE
Statements By Members—
  Breast Cancer ............................................................................................................... 110
  McPherson Electorate: Lions Youth of the Year Quest .................................................. 111
  Health Insurance .......................................................................................................... 112
  Angel Flight ................................................................................................................... 112
  Investing in Our Schools Program ................................................................................ 113
  Casey Electorate: Bayswater North Primary School ..................................................... 114
  Hume Highway ............................................................................................................. 115
  Beattie Government ...................................................................................................... 116
  Australia Post ................................................................................................................ 116
  Investing in Our Schools Program ................................................................................ 117
  Child Care ..................................................................................................................... 118
Fisheries Legislation Amendment (Cooperative Fisheries Arrangements and Other
Matters) Bill 2005—
  Second Reading .......................................................................................................... 119
Statute Law Revision Bill (No. 2) 2005—
  Second Reading .......................................................................................................... 139
Bankruptcy Legislation Amendment (Anti-avoidance) Bill 2005—
  Second Reading .......................................................................................................... 143
  Consideration in Detail ............................................................................................... 156
Family Law Amendment (Shared Parental Responsibility) Bill 2005—
  Second Reading .......................................................................................................... 157
QUESTIONS IN WRITING

Advertising Campaigns—(Question No. 1390) ............................................................... 182
Telecommunications Service Providers—(Question No. 1759)..................................... 182
Commonwealth Property—(Question No. 2007)............................................................. 184
Legal Services—(Question No. 2923).............................................................................. 185
Tuesday, 28 February 2006

The SPEAKER (Hon. David Hawker) took the chair at 2.00 pm and read prayers.

QUESTIONS WITHOUT NOTICE

Mr Trevor Flugge

Mr BEAZLEY (2.01 pm)—My question is to the Minister for Revenue and Assistant Treasurer. Can the minister confirm that Mr Trevor Flugge would have been eligible for an income tax exemption under the program under which he was employed?

Mr DUTTON—What I can confirm is that people who receive payments must act in accordance with the law and, if they receive payments and they are entitled to a deduction, that is a matter for the tax commissioner to decide.

Opposition members interjecting—

The SPEAKER—Order! Has the minister completed his answer?

Mr Dutton—Yes.

Economy

Mr WAKELIN (2.02 pm)—My question is addressed to the Treasurer. Would the Treasurer inform the House of the results of today’s balance of payments release? What does this data indicate about Australia’s economic outlook?

Mr COSTELLO—I thank the honourable member for Grey for his question, and I can inform him that the balance of payment for the December quarter of 2005 was released today. The current account deficit widened slightly, by $0.8 billion, to be $14.45 billion. This mainly reflects a widening in the net income deficit, which increased by $0.7 billion, and this is being driven by high profits earned by foreign owned Australian based companies, particularly those in the mining sector. The trade deficit was largely unchanged. There was a welcome increase in exports of around 4.1 per cent, due largely to a strong rise in metal ores, and a 3.9 per cent rise in imports which offset that, driven by increases in capital goods import, particularly civil aircraft, which is a volatile series. The terms of trade rose 2.1 per cent and are now 13.3 per cent higher through the year, at their highest level since the March quarter of 1974.

Australia’s net foreign debt increased to $473 billion in the December quarter. Nearly all of that comprises private debt. The general government share of net foreign debt has fallen sharply since the coalition came to office. It is now 4.6 per cent, down from 17.2 per cent in March 1996. Australia’s ability to service its net foreign debt has also improved. The debt servicing ratio fell to 9.1 per cent in the December quarter, well below the peak of 20 per cent in the September quarter of 1990.

There are a number of reasons we can expect an improvement in the current account deficit in the near future. ABARE’s latest crop report forecasts winter crop production upgraded to 40.6 million tonnes, and Australia’s mining industry has invested around $31.6 billion in the expansion of productive capacity. With rural exports recovering, with the very, very high terms of trade and particularly with the buoyancy of minerals exports, we would expect through the course of the year the trade deficit to narrow. Given those matters, Australia cannot afford to be complacent about its current account deficit. A lot of that represents borrowing, and whilst the business sector is borrowing to invest in new capacity—something that is good for the economy—it is important that the Australian government save, because it is the only sector that is saving at the moment and therefore adding to national savings or, conversely, detracting from the growth of debt. It is important in these circumstances that Australia maintain a strong fiscal position—
the fiscal position which the government has set out.

DISTINGUISHED VISITORS

The SPEAKER (2.05 pm)—I inform the House that we have present in the gallery this afternoon Lady Sonia McMahon. On behalf of the House I extend to her a very warm welcome.

Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE

Oil for Food Program

Mr BEAZLEY (2.06 pm)—My question is to the Prime Minister. Can the Prime Minister assure the parliament that his government responded competently to the concerns raised with the government by the United Nations in January and March 2000 concerning the AWB’s contracts with the Saddam Hussein regime?

Mr HOWARD—I believe that the government did. The question, though, asked by the Leader of the Opposition is clearly something in relation to matters of fact on which Commissioner Cole will make a judgment. I therefore say, in relation to my own belief, it is my belief that the government responded competently, but unusually in this situation we have an independent adjudication. I remind the Leader of the Opposition: I lead the only government in the world that has been prepared to establish an inquiry with the powers of a royal commission.

Opposition members interjecting—

Mr HOWARD—I am the only one. They do not like it, Mr Speaker, but it happens to be true. The earnest tones and grave of the opposition indicate they do not like it, but it is true. I repeat: I believe that the government behaved competently. The commissioner has said he has the power to make a finding of fact in relation to the behaviour of the Commonwealth; and, as the Leader of the Opposition knows, that includes ministers as well as departments. Let the blame fall where it may.

Oil for Food Program

Mr SECKER (2.07 pm)—My question is addressed to the Minister for Foreign Affairs. Would the minister update the parliament on international reaction to the Cole inquiry? Are there any alternative views to those international responses?

Mr DOWNER—I thank the honourable member for Barker for his interest. By raising this question he is, as usual, assiduously representing the interests of the good people of the electorate of Barker, which is adjacent to the electorate of Mayo. The Prime Minister set up the Cole inquiry in response to the request by the Secretary-General of the United Nations that national authorities take action against companies in their jurisdictions which have been named in a negative way in the Volcker report.

To put that into some perspective: over 2,000 companies from 66 countries, including Australia, were named in the Volcker report. Leaving Australia aside, many of the 65 other countries have taken no action whatsoever. Of those that have, most have simply referred the Volcker allegations to investigative authorities. There are two exceptions: one is India, which has had—I think is still having—a closed door inquiry; and South Africa has just established an inquiry, which has not yet got under way. As the Prime Minister has just said, no country has set up a transparent inquiry with the powers of what we call a royal commission in the way that the Australian government has done.

During his meeting with the Australian Deputy Prime Minister the day before yesterday, the Deputy Prime Minister of Iraq, Dr Chalabi, praised the Australian government’s decision to establish the Cole inquiry. It was a clear appreciation by the Iraqi government
of what Australia has been doing. By the way, Dr Chalabi made the point, as the Prime Minister of Iraq and others have made on occasions, that they are delighted with the contribution this government made to get rid of Saddam Hussein’s regime, and they appreciate the ongoing work of the Australian Defence Force.

Interestingly enough, the Wall Street Journal, which I would have thought is an extraordinarily credible newspaper and which is read all the way round the world, praised the Australian government recently for establishing the Cole inquiry. This is what the article said:

But the good news is that—

Australia—

has had the nerve to sort the wheat from the chaff—and do it publicly

... ... ...

Opposition members—Oh!

Mr DOWNER—You are easy to amuse.

It goes on:

It’s striking how Australia has been one of the few countries to have pushed the oil-for-food investigations to the extent of examining its own role.

I believe Commissioner Cole is doing a very thorough and a very good job, and we will have to wait and see what conclusions he draws. All sorts of evidence has been brought forward. That is interesting, but we want to find out when it has been tested what is right and what is wrong, and Commissioner Cole will do that.

While others are praising the work of Cole and waiting for its report, the Leader of the Opposition has gone out and said that the government is corrupt. In recent days he has sunk to even newer lows. He has allowed shadow ministers to slur the reputation of one of the most honourable people ever to sit in this parliament—the member for Gwydir.

He has gone on television attacking departmental officers because apparently, at some point, those departmental officers worked within the offices of ministers and shadow ministers. Yesterday he allowed the member for Wills—I heard it on AM this morning after I got back from Jakarta—to ridicule Trevor Flugge because he has a hearing defect. I thought this parliament had got over the fact that people with hearing defects should not be ridiculed.

Mr Swan interjecting—

The SPEAKER—The member for Lilley will come to order.

Mr DOWNER—Certainly not. I make the serious point that the Leader of the Opposition, when he was once before the Leader of the Opposition, used to trade on the basis that he may not be very competent and hardworking but at least he is a decent bloke. He has abandoned all standards of decency through this debate.

Oil for Food Program

Mr BEAZLEY (2.12 pm)—I have been savaged by a sheep. My question is to the Prime Minister. I refer to the statement of the Prime Minister on 30 January 2006 when he said in relation to the AWB’s dealings with Saddam Hussein’s regime: ‘We had no suspicion, no suggestion there’d been any bribes paid. There were no alarm bells.’ Why did the Prime Minister make that statement when his government received this cable dated 13 January 2000 which contained the following warnings from the UN office for the Iraq program: first, the Iraqis were demanding a surcharge of SUS14 per metric tonne for wheat, which would be paid outside the oil for food program; second, the funds were to provided into a bank account in Jordan; third, the system was designed to provide illegal revenue for Iraq in US dollars; fourth, the UN believed the company involved in the scheme was owned by the son of Saddam
Hussein; and, fifth, the AWB had concluded contracts of a similar nature to this with the Iraqi regime?

Mr HOWARD—That is the so-called ‘Canadian’ cable.

Mr Rudd—So-called? It’s an Australian cable.

Mr HOWARD—It is the so-called Canadian cable. It is based upon complaints originally made by the Canadians. The Canadians, be it remembered by this parliament, are competitors against Australia for Iraq’s wheat imports. Sometimes I think some of these characters, instead of being members with particular electorates, are the senior senator from Manitoba or Iowa rather than being concerned about the representations of the Australian wheat industry.

Let me go to the substance of the allegations that were raised in this cable. I point out that on 13 January the reporting cable clearly shows that the United Nations mission—that is, the Australian Mission in the United Nations—referred the matter back to the Department of Foreign Affairs and Trade for advice as soon as the Canadian initiated complaint had been raised with the United Nations. I am advised that DFAT contacted AWB Ltd, who categorically denied the allegations.

Mr Beazley interjecting—

Mr HOWARD—A query is raised, so what do we do? Roll over because one of our competitors says we are bad? We roll over, according to the Leader of the Opposition. That is not my idea of protecting the national interest. I repeat: in March the UN query about Canadian allegations and on the AWB contract terms was resolved to the UN’s satisfaction after the provision by the AWB of its contract terms and conditions. And importantly—and I emphasise this—the United Nations Office of the Iraq Program, which had raised the complaint in the first place at the instance of the Canadians, indicated that this had removed any grounds for misperceptions. That was the response. In those circumstances, I rest on my claim that we responded correctly.

Illegal Fishing

Mr TOLLNER (2.17 pm)—My question is addressed to the Minister for Foreign Affairs. Would the minister update the House on recent developments to prevent illegal fishing in Australia’s northern waters?

Opposition members interjecting—

Mr DOWNER—It takes someone from this side of the House to show any interest in this issue in question time. I think I am right in saying that in 10 years I have never been asked a question by the opposition on this issue. I do not think so. I will stand corrected if I am wrong, but I do not think I ever have been asked a question by the opposition on this subject. I thank the honourable member for his question. Illegal fishing has been increasing in Australia’s northern waters. Action has been taken against some 607 foreign vessels in 2005, compared to 289 in 2004.
Obviously, illegal fishing in Australian waters is damaging to Australia’s fishing industry, as well as to our environmental policies and our marine environment, and it raises quarantine, immigration and security risks.

Many of the vessels, but not all of them, are from Indonesia and we are working with the Indonesians to meet this common challenge. Yesterday, while I was in Jakarta with my colleague, friend and counterpart Hassan Wirajuda, we discussed the possibility of establishing joint naval patrols between Australia and Indonesia. I think that to establish joint naval patrols—not just our own navy patrolling the area, but doing it jointly with the Indonesians—would be a very effective deterrent to illegal fishing. It would send a very strong message not just about Australia confronting Indonesia over this issue. I think it is a good way of doing it, making sure there is a shared commitment to addressing the problem. I know that the Minister for Defence is working on ways that we can implement this policy and will be working with his Indonesian counterpart as well.

This is on top of us launching a campaign in fishing communities in Indonesia to ensure that Indonesians understand that transgressing Australian waters is illegal and, importantly, brings with it penalties. We are introducing, which I think is a very important thing to do, a joint study of illegal fishing in South-East Asia—in particular, because we have concern about the catching of sharks for shark fin being a real incentive for illegal fishing—to ensure that we all understand much better than, frankly, we do at the moment the regional shark business so that we can take measures to counter what is going on on illegal vessels.

I think the government is devoting a lot of resources to this issue. We need to work closely with the Indonesians. I was yesterday very impressed by the very constructive approach that my friends and colleagues in Indonesia took to this issue, recognising that it was a shared responsibility and that the best way of dealing with it is by working together.

**DISTINGUISHED VISITORS**

The **SPEAKER** (2.21 pm)—I inform members of the House that we have present in the gallery this afternoon the Hon. Nick Dondas, Mrs Ricki Johnston and Mrs Elizabeth Grace, all former members of the House. On behalf of members, I extend to them a very warm welcome.

Honourable members—Hear, hear!

**QUESTIONS WITHOUT NOTICE**

**Oil for Food Program**

Mr **RUDD** (2.21 pm)—My question is to the Prime Minister. I refer to his statement of 30 January 2006, when he said in relation to the AWB’s dealings with Saddam Hussein’s regime, ‘We had no suspicion, no suggestion there’d been any bribes,’ and that there were ‘no alarm bells’. How could the Prime Minister have made that statement when he was in possession of the cable from his embassy to the United Nations in New York which warned that Saddam Hussein’s regime were directly approaching wheat suppliers to inflate contract prices of wheat, that the AWB had concluded such contracts with the Iraqi regime and that another national wheat supplier had specifically rejected these approaches, having been advised by the United Nations that accepting any such arrangement would be in breach of United Nations sanctions? How could the Prime Minister credibly claim that there were no warning bells?

Mr **HOWARD**—I refer the honourable gentleman to the last answer I gave.

**Trade**

Mr **KEENAN** (2.22 pm)—My question is addressed to the Treasurer. Would the Treasurer outline to the House the results of the
March quarter *Australian commodities* release? How important is experienced and consistent management?

Mr COSTELLO—I thank the honourable member for Stirling for his question. I can inform him and the House that ABARE today released their *Australian commodities* publication and, according to ABARE, earnings from Australia’s commodity exports are forecast to increase 25 per cent to around $125 billion in 2005-06, export earnings from mineral and energy resources are forecast to rise 36 per cent to $93 billion and the value of farm exports is forecast to be $28 billion in 2005-06. As I said earlier, Australia now has the strongest terms of trade that it has had since 1974. In those circumstances it is important that we bear in mind that a terms of trade boom will not last forever, that we cannot take permanent decisions on the back of temporary movements in terms of trade and that at periods like this, as has been found in Australian history, it is important to have experienced and consistent economic management.

It is not just the government that believes experienced management is necessary. This is also a view which is shared by the Labor Party. The Leader of the Opposition was asked on ABC Radio on 3 March 2005 about this and he said:

I’ve been around for a very long time, longer than Simon Crean and longer than anyone else, and I don’t feel like being pensioned off, thanks. I appreciate having a bit of experience around balancing the youth.

We would agree that having the experience of the member for Hotham around is something that certainly adds to the opposition. But at the very time when the Leader of the Opposition acknowledges the importance of experience, he has the member for Hotham lined up in Victoria, he has the member for Corio lined up in Victoria and he has the member for Maribyrnong, who today has announced that he has withdrawn from pre-selection in the seat of Maribyrnong. He has withdrawn because, as he said:

A series of sleazy deals means that even with very strong local support, it is now almost impossible for me to win preselection …

‘A series of sleazy deals’! The former Leader of the Opposition, the member for Werriwa, promised that if he was elected he would ‘ease the squeeze’. This Leader of the Opposition does not want to ease the squeeze; he wants to ease the sleaze. Worse than that, he wants to grease the sleaze—grease the sleaze in Maribyrnong, grease the sleaze in Corio, grease the sleaze in Hotham. He stands back as if this has nothing to do with him even though he was telling ABC Radio that he wanted experience. How is it that he wanted experience back in 2005 but he does not now want experience? The answer came down on 6PR recently. Listen to this. This is what 6PR reported recently:

Opposition leader Kim Beazley’s made an extraordinary admission regarding Labor’s fitness to govern. He … says he seriously doubted whether the Opposition frontbench was up to the job when he returned to the leadership 12 months ago.

But—

Mr Beazley says he’s since changed his mind and now believes his Shadow Ministers are capable of running the country.

Shadow minister the member for Corio, shadow minister the member for Maribyrnong, shadow minister the member for Hotham—he is standing by whilst he lets the sleaze of the Victorian Labor Party run them out of their seats. These are the people he believes are up to running the country! Mr Speaker, how could he have come to that view? Listen to this. This is what the Leader of the Opposition said:

_Honourable members interjecting—_

The SPEAKER—Order! There are far too many interjections!
Mr COSTELLO—He said:
... coming back from a period of three years on the back bench—
Honourable members interjecting—
The SPEAKER—Order! The Treasurer will resume his seat. The level of noise is far too high. The Treasurer will come back to the question.
Mr COSTELLO—He said this, Mr Speaker:
... coming back from a period of three years on the back bench and not having had a good look at what they were doing, I wasn’t sure about that at the time. Now, I am ... They are fit and ready for government.
Let me tell you, Mr Speaker, that if they were fit and ready for government you would be standing by your shadow ministers in their preselection. You would be standing by the member for Maribyrnong, you would be standing by the member for Corio, you would be standing by the member for Hotham—and the reason you don’t is you are beholden to the sleaze of the Victorian Labor Party and the war lords who direct you.

The SPEAKER—Order! Before I call the next question, I would remind the Treasurer he should refer to members by their title or their seat and not use the word ‘you’.

Oil for Food Program
Mr RUDD (2.29 pm)—My question is to the Prime Minister. I refer to his statement of 30 January 2006 when he said in relation to the AWB’s dealings with Iraq:
We had no suspicion, no suggestion there’d been any bribes paid ... there were no alarm bells.
I refer the Prime Minister to yet another cable, this one of 13 January 2000, in which the UN requested the Howard government to make ‘high-level inquiries’ to ensure that the AWB was not breaching the sanctions regime. I refer to the government’s reply five days later on 18 January 2000, in which DFAT stated, ‘We think it is unlikely that AWB would be involved knowingly in any form of payment in breach of the sanctions regime.’ Prime Minister, given your earlier statement today that the UN was satisfied with your assurances, what high-level inquiries did the government make between the 13 January cable and the 18 January reply to satisfy yourself that the AWB was not rorting UN sanctions?

Mr HOWARD—What the member for Griffith has done is to selectively grab a couple of cables and put his own interpretation on them. The reality is that if you look at the totality of these cables they support in every respect the answer that I gave to the Leader of the Opposition.

DISTINGUISHED VISITORS
The SPEAKER (2.30 pm)—I inform the House that we have present in the gallery this afternoon members of a delegation from the Philippines who are visiting Australia under the auspices of the Australian Political Exchange Council. On behalf of the House I extend a very warm welcome to the members.

Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE
Aviation
Mrs HULL (2.30 pm)—My question is addressed to the Minister for Transport and Regional Services. Would the minister advise the House of measures the government has taken to improve Australia’s international air services? Are there any alternative policies?

Mr TRUSS—I thank the honourable member for her question and recognise her particular advocacy for regional aviation. In fact, she is probably the only person in this House to have an aircraft named in her honour, and it is a thoroughly deserved recognition.
The Australian government is committed to growing and expanding international aviation. We have worked very hard to improve the services in and out of Australia, and that has achieved real dividends. We have had record numbers of passengers in and out and a record number of seats available to and from Australia, and that has been achieved against the background of events like SARS and September 11, which certainly sent shock waves through international travel.

The government will be continuing to pursue these objectives in reaffirming and expanding our policy in relation to international aviation. We have declared our recognition of the importance of open skies as an aspirational goal, the need to negotiate air services ahead of demand and the importance of maintaining our access to key aviation hubs around the world. We have also, though, recognised the important contribution that an Australian based aviation industry makes to the economy. It is a balanced policy that looks to achieve the very best for our country.

In relation to the US-Australia route—about which there has been a lot of controversy over recent times—it is important to note that there is already significant competition potentially available on that route, with scores of airlines having the right to operate it if they choose. Many have tried and failed, but there is still significant competition available on that route. The interest of two Australian airlines, Virgin Blue and Jetstar, in entering the route opens up the potential for real competition with a different type of product than that which might have been available under some of the other options that were under consideration.

The honourable member asked whether there were any alternative policies. In spite of the fact that there has been debate going on for years about the trans-Pacific route, the opposition put out a statement just two weeks before the government announced its policy in relation to this issue. Their policy is, ‘Federal Labor is open-minded on air route liberalisation.’ They had no policy; a complete vacuum. The Leader of the Opposition is now talking about his big target policy and how he is going to lead in these sorts of issues, but when it comes to aviation, they are ‘open-minded’; they have not made up their mind.

What about when it comes to keeping jobs in heavy maintenance work in Australia? The opposition gives lip-service to wanting Qantas to maintain its heavy maintenance activities in Australia but as we speak the very workers whose jobs are at risk are on strike. They are invading the Melbourne domestic terminal and demonstrating to their employer that they cannot be relied upon to do the job when it matters.

If we want to maintain these jobs in Australia, and this government certainly does—we want these skills to be developed and maintained in Australia—then the workforce also has a role to play. Going out on strike in the very weeks when Qantas are making key decisions is sending a very wrong message to the Qantas board. I call upon the workers to play their role in negotiating appropriate arrangements which would allow these thousands of jobs, critical jobs for Australia, to remain in this country.

Oil for Food Program

Mr RUDD (2.35 pm)—My question is to the Minister for Foreign Affairs. I refer to the minister’s statement to parliament that the United Nations had only raised with the government a general concern about contracts of the Australian Wheat Board and, further, ‘When the opposition talks about warning bells, it picks out obscure documents.’ Why did the minister make these statements when the government had received this cable,
dated 13 January 2002, which was sent to the minister’s office and contained the following warnings from the United Nations Office of the Iraq Program: first, that the Iraqis were demanding a surcharge of US$14 per metric tonne for wheat which would be paid outside the oil for food program; second, that the funds were to be provided into a bank account in Jordan; third, that the system was designed to provide illegal revenue for Iraq in US dollars; fourth, that the UN believed that the company involved in the scheme was owned by the son of Saddam Hussein; and fifth, that the AWB had concluded contracts of a similar nature to this with the Iraqi regime? Minister, how could you regard this cable as an obscure document containing only general warnings?

Mr DOWNER—First, I thank the honourable member for Griffith for the question because this is the first time I have been asked a question on this issue this year. I very much appreciate the opportunity to say something about it. The honourable member raises the question of the cable of 13 January and selectively quotes from it. I note that this cable reports allegations that had been made not by the United Nations but—as we subsequently discovered, but which we did not know at that time—by the Canadian Wheat Board, who were of course competitors of the Australian Wheat Board.

The second observation I would make is that, if you read the whole cable—and the reason the opposition has these cables is that they were tabled in the Cole inquiry today—you will see that the last paragraph says: ‘The Office of the Iraq Program,’ the OIP, ‘noted it had no way—

Mr Rudd interjecting—

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

Mr DOWNER—of judging the accuracy or otherwise of the claims the Iraqi Grains Board is alleged to have made about AWB,’ and so it goes on. There was not a suggestion from the United Nations office of Iraqi programs that this allegation was accurate, just that the allegation had been made. Subsequently, this allegation was checked out on several occasions. First of all it was checked out, and that is of course referred to in one of the other cables tabled today, but subsequently the United Nations office of Iraqi programs asked for specific documentation from the Australian Wheat Board, through the Australian government—documentation which got to the heart of contracts that the allegations suggested might have been rorted.

The Department of Foreign Affairs and Trade, if I may say so, with some difficulty obtained these additional contracts that had not previously been provided to the United Nations which the United Nations wanted in order to establish the veracity of these claims that had been made by the Canadians. These contracts were finally obtained by the department from AWB Ltd and given to the United Nations, who studied the contracts and concluded that these allegations that had been made by AWB Ltd, as referred to in these cables which were tabled in the Cole commission today, were unfounded.

Health Insurance

Mrs GASH (2.39 pm)—My question is addressed to the Minister for Health and Ageing. Would the minister inform the House how private health insurance is delivering good value to about nine million Australians? What is the government doing to support the private health insurance rebate, and are there any alternative policies?

Mr ABBOTT—I thank the member for Gilmore for her question and I point out to her that support for private health insurance has been one of the signature policies of the Howard government. Thanks to measures
such as the private health insurance rebate, almost nine million Australians enjoy the added security and choice that private cover brings, including one million earning less than $20,000 a year. No-one likes price rises, but I point out that the annual average private health insurance price rise has been 5½ per cent since 1996. It was 11 per cent a year during the term of the former Labor government.

Without the rebate, which the Labor Party wants to abolish, the average Australian family would be paying nearly $1,000 a year more for their private health insurance. The Leader of the Opposition described the private health insurance rebate as a boondoggle in one of his less verbose moments. We had the member for Lalor cook up Medicare Gold as a secret deal to destroy the rebate. Labor’s old guard hate the rebate, and so do the union hacks who are now seeking to take their places. We have the AWU and Mr Bill Shorten, the future member for Maribyrnong and the self-styled next Labor Prime Minister, the self-styled Messiah of the Labor Party. He says the rebate is a ‘subsidy to the rich’. We have the NUW’s Martin Pakula. If the ACTU website is any guide, he thinks the rebate ‘drains resources from public hospitals and undermines bulk-billing’.

Mr Pakula may be very appealing to Cambodian-speaking people, who are just two per cent of the electorate of Hotham but 30 per cent of the Labor preselectors of Hotham. What about the 42 per cent of the electors of Hotham who have private health insurance? I read in the Australian last Friday that he still has the Greek branches but he has lost the Spanish branches, the Vietnamese branches as well as the Cambodian branches. I could not help but think, ‘Are there any Australians left in the so-called Australian Labor Party today?’

*Opposition members interjecting—

**The SPEAKER**—Order! There is far too much noise. Deputy Leader of the Opposition, the Speaker is on his feet.

**Mr Albanese**—On a point of order, Mr Speaker, the minister should withdraw that extraordinarily outrageous slur on every Australian who does not have an Anglo-Celtic name in this country. We have heard the dog whistle from this mob one after the other, but this minister, as usual, has gone too far and I ask him to withdraw it.

**The SPEAKER**—The member for Grayndler has made his point.

**Mrs Bronwyn Bishop**—Mr Speaker, there is no point of order. The honourable member across the way in fact was just debating the question. There is another time and place for that.

**The SPEAKER**—The member for Mackellar will resume her seat. I have not ruled on that matter. I was listening to the answer by the Minister for Health and Ageing. I did not see that as offensive, but if the member would like it withdrawn—

**Mr Albanese**—Mr Speaker, I did and 46 per cent of my electorate will find that offensive as well.

**Mr ABBOTT**—Mr Speaker, if it would assist the member for Grayndler I am happy to withdraw anything that is giving him offence, but I say this: I think the Australian people are entitled to reject the way the Australian Labor Party constantly put people into ethnic ghettos. That is what they are trying to do to people. We should have Australian branches in Australian political parties—

**Ms Gillard**—Mr Speaker, I rise on a point of order. As you would hopefully recall, Mr Speaker, this was a question on private health insurance. If the minister has a comment on private health insurance, maybe he should make it.
The SPEAKER—I thank the Manager of Opposition Business. Has the minister completed his answer? The Minister for Health and Ageing will come back to the question.

Mr ABBOTT—I just want to point out that to his great credit, the embattled current member for Hotham does support private health insurance.

Opposition members interjecting—

The SPEAKER—The minister has only just started to continue his answer. I will call the minister and listen carefully to what he has to say.

Mr ABBOTT—I was saying that, to his great credit, the current member for Hotham does support private health insurance. When he was the leader, he said: ‘I accept that families have factored into their budgets the cost of private health insurance and I am not going to disadvantage them.’ Well, good on the member for Hotham. In fact, it is precisely because of these sorts of attitudes towards private health insurance that I am sure his friend the member for Batman said: Simon Crean is the most honest and sincere leader of any political party in the last 50 years. I beg to differ. There have been more honest and more sincere leaders of some political parties in the last 50 years. After listening to what the Leader of the Opposition has said today, I certainly think the member for Hotham is the best leader Labor has had in the last five years.

Oil for Food Program

Mr RUDD (2.47 pm)—My question is to the Minister for Foreign Affairs. I refer to his statement to parliament that the United Nations had only raised with the government a general concern about contracts of the Australian Wheat Board and that, when the opposition talks about the warning bells, it picks out obscure documents. Minister, I refer to another obscure document, a third cable of 11 March 2000, containing a further warning to the government concerning the AWB’s activities in Iraq and one which is explicitly copied to the secretary to the minister’s department. Will the minister confirm to the parliament that this further warning from the United Nations stated that the representative of the office of the Iraq program ‘had received an insufficient response to enable her to close the matter and that it was imperative that this matter be put to rest’? What action did the minister himself take to ensure that these sets of warnings conveyed by the United Nations had been comprehensively addressed?

Mr DOWNER—Again, I thank the honourable member for his questions—two in a row on this topic—and I appreciate that enormously. Yes, this is another one of the cables that have been tabled today in the Cole commission. The 11 March cable, which is from Austrade back to Canberra, is about the same issue. It is not a separate issue; it is the same allegation made by, as it turned out—I said earlier the Canadian Wheat Associates; that was a mistake—the Canadian Wheat Board. It is the same issue. I made this point earlier: in order to round off their investigation, the United Nations wanted access to contracts that they had not had access to in the past. Why AWB Ltd had not passed them those contracts, I do not know. That is the sort of thing that will be considered by the Cole inquiry, as indeed will all of this. But what I do know is that, through this period, the department was quite assiduous in making sure that it furnished the United Nations—which was responsible for the administration of the oil for food program—investigators with the material they asked for. I made the point earlier, by the way, and it is quite an important point, that AWB Ltd was a little reluctant initially to provide the department with these documents to pass on to the UN.
Mr DOWNER—Members may laugh. They may think: ‘We all know why now.’ We certainly did not know then. Subsequent to this cable of 11 March, that information was obtained—you can see in the reporting of this cable; it tells the story quite clearly—and it was given to the United Nations. The United Nations read those contracts and said that, as a result of that, the matter was closed. Whilst at the time of the conversation in Washington, reported in the 11 March cable, the matter had not been closed according to the United Nations, when DFAT subsequently obtained the information they wanted, the United Nations closed the matter.

I would have thought that the allegation that departmental officers of DFAT, me—the minister—the Minister for Trade and the Prime Minister had all been negligent was the exact reverse to what these cables showed, that people were assiduous in following up inquiries, obtaining information and ensuring that these matters were investigated to the fullest extent possible. Of course, if the opposition had had its way, it would have left the oil for food program in place indefinitely, along with its friend Saddam Hussein.

Education: Queensland

Mr NEVILLE (2.51 pm)—My question is addressed to the Minister for Education, Science and Training. Would the minister advise the House of the government’s education initiatives to ease the shortage of doctors in Queensland? Are there any alternative views?

Ms JULIE BISHOP—I thank the member for Hinkler for his question and acknowledge his concern about this issue. Members of the House will recall that the Prime Minister announced we had a plan to lift the cap on full fee paying medical places from 10 per cent to 25 per cent.

Ms Macklin interjecting—

Ms JULIE BISHOP—In the case of the University of Queensland this would mean 60 extra students could study medicine—

Ms Macklin interjecting—

Ms JULIE BISHOP—and these are in addition to the HECS places.

The SPEAKER—Order! The Deputy Leader of the Opposition is warned!

Ms JULIE BISHOP—Yesterday we learned that a struggle has broken out between the member for Jagajaga—who opposes this plan to increase the number of medical places for up to 400 students each year—and the member for Lalor, who thinks that she spoke out of turn and was out of line. That is a fight I would like to see televised. Today we learned that other members of the Labor frontbench also believe that the member for Jagajaga is way out of line. We have the member for Hunter, the member for Barton, the member for Batman—

Opposition members interjecting—

Mr Neville—Mr Speaker, I rise on a point of order. The question is fair. We cannot hear the answer to the question at all.

The SPEAKER—The member for Hinkler has raised a valid point of order. All members will respect that the minister should be heard and others should be able to hear the minister.

Ms JULIE BISHOP—I was pointing out that a number of those on the Labor frontbench believe that the member for Jagajaga is way out of touch. We have the member for Batman, the member for Wills, the member for Hunter and the member for Barton. The very wise and very experienced member for Hotham also supports this plan. How many other members of the Labor frontbench—you are smiling—or the backbench would
rather support a plan that was embraced by all state Labor premiers: Mike Rann, Paul Lennon, Steve Bracks, Morris Iemma, Clare Martin and Jon Stanhope? They all support this plan. But, once again, federal Labor have taken the soft political option and they are bailing out the member for Jagajaga. Member for Brand, this is not about saving the member for Jagajaga; it is about building a sustainable health workforce. Yesterday, I tabled the instrument that would enable us to increase the number of medical places in Australian universities. The clock is still ticking.

Oil for Food Program

Mr BEAZLEY (2.55 pm)—My question is to the Minister for Foreign Affairs. Minister, given that these cables of 13 and 18 January 2000 were sent to your office, were you personally briefed on them?

Mr DOWNER—I am not sure that the last cable was sent to my office; it actually went to Dr Calvert, the secretary of the department. The others would have been sent to my office and of course I would have read them. I have explained already that I was perfectly satisfied with the response of the department to these inquiries.

Mr Rudd interjecting—

The SPEAKER—Order! The member for Lilley has already been warned!

Mr DOWNER—The point I make about the opposition is this: what we have been able to expose through your questioning today is that we have a completely clear explanation for all of this material. The material has come forward as a result of the Cole inquiry, which we established in order to get to the heart of the matter. And, what is more, if it had not been for the efforts by the government to not only cooperate with Volcker and establish the Cole inquiry but also contribute to the overthrow of Saddam Hussein then the oil for food program would simply be continuing. Cables that are repeated to my office are repeated to my office. Although about 130,000 cables come to my office a year, they are certainly drawn to my attention, particularly ones which have particular significance.

Political Donations

Mr BARRESI (2.57 pm)—My question is addressed to the Minister for Employment and Workplace Relations. Would the minister update the House on political donations made by registered organisations under the Workplace Relations Act? How has this influenced the democratic process?

Mr ANDREWS—I thank the member for Deakin for his question and his interest in this subject. Yesterday in this place the Leader of the Opposition said that the Labor Party had ‘received the odd contribution from the trade union movement’. Of course, since 1996 that ‘odd contribution’ has added up to almost $50 million. Indeed, in Victoria that ‘odd contribution’ from the unions has amounted to some $11.6 million.

Mr Swan interjecting—

The SPEAKER—Order! The member for Lilley!

Mr ANDREWS—This is very interesting in the context—

Mr Swan interjecting—

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

Mr ANDREWS—of these three sitting frontbenchers who are being challenged for preselection by three more union officials. The reality is that the power basis of these three challengers is entirely predicated upon branch stacking, union links, slush funds and sleazy deals between them, which freeze out ordinary members of the Australian Labor Party.

We had confirmation of this this morning when the member for Maribyrnong said on
radio 3AW in Melbourne that it was almost impossible for him to win preselection, thanks to a series of what he calls ‘sleazy internal deals’—confirmation from the member for Maribyrnong. We have had luminaries of the Labor Party speak out about this: people like John Cain, a former Premier of Victoria; Barry Jones, a former minister in a Labor government and a former president of the ALP; and, of course, John Button, a very distinguished former senator for the ALP. Mr Button said this recently:

... Simon Crean when he was leader took the step of trying to implement a very small number of the recommendations which were advocated by Bob Hawke and Neville Wran in their proposals to reform and make more democratic the Labor Party in Australia. He took that step.

But John Button went on to say:

Now, that doesn’t suit certain people because they’re not interested in democratic parties. They’re more interested in manipulating positions of power and branch stacking and things like that, which produce that power.

We saw this in a report in the Weekend Australian newspaper on 26 November last year, which reported on the fact that Bill Shorten and Martin Pakula had met ‘in a secret location in northern Melbourne’. The report went on to say:

A swag of state seats as well as seven federal lower house seats and two positions on the Senate ticket were bought and sold that day.

Mr Albanese—Mr Speaker, I rise on a point of order and it goes to relevance. How is this possibly relevant?

The SPEAKER—The member for Melbourne is warned! In calling the minister, I ask him to come back to the question.

Mr ANDREWS—Yes, Mr Speaker; the question was about donations to registered organisations and their influence on the democratic process. What we see here is something that I would say the vast majority of Australians would find appalling, disgusting and unacceptable, and that is that the preselections of members of this place are bought and sold in a sleazy, secret deal by members of the trade union movement. That is the reality. And who stood by and has done absolutely nothing? Who was so weak that he would not lift his finger in relation to this? None other than the Leader of the Opposition, so weak that he stands by and allows this undemocratic process to continue. Of course, the other party to this—

Mr Pyne interjecting—

The SPEAKER—The member for Sturt!

Mr Bevis—How’s Julian McGauran’s preselection shaping up?

The SPEAKER—The member for Brisbane is warned!

Mr Albanese—Mr Speaker, I raise a point of order. You had asked the minister to come back to the question. He is now defying your ruling. I ask him to come back to the question.

The SPEAKER—In response to the member for Grayndler, I have been listening carefully. The minister is linking his answer to the question.

Mr ANDREWS—One of the other officials of a registered organisation who has been involved in this, the fourth preselection aspirant, Mr David Feeney, who is described as an adept branch stacker in Victoria and established Transport 2020, a slush fund in Victoria—
Mr Albanese—Mr Speaker, I raise a point of order. This is not relevant to the question that was asked, and I ask you to draw him back to the question.

The Speaker—I thank the member for Grayndler. I call the minister, and I ask him to conclude his answer.

Mr Andrews—Mr Speaker, I am coming to the conclusion. This is another man who has been rewarded for his branch stacking by being made the assistant national secretary and director of the South Australian campaign.

The Speaker—The member for Grayndler will resume his seat. Member for Grayndler, is this a further point of order?

Mr Albanese—He is just ignoring your rulings.

The Speaker—The member for Grayndler will resume his seat. I have called the minister to conclude his answer. He has indicated that he is concluding his answer. The minister has the call.

Mr Andrews—in conclusion, I table a compendium of activities of this branch stacking which has been going on in the Victorian ALP, involving registered organisations, with many of the players here, including those who are challenging the member for Hotham, the member for Corio and the member for Maribyrnong. In addition to that, I produce for the interest of honourable members a flow chart which shows the interlocking relationships between these various players. This is sleazy, secret branch stacking—sleazy, secret buying and selling of places in the House of Representatives.

Mr Pyne interjecting—

The Speaker—Order! The member for Sturt is warned!

Mr Beazley interjecting—

The Speaker—The Leader of the Opposition does not have the call.

Mr Beazley (3.05 pm)—My question is to the Minister for Foreign Affairs. It relates to the answer he gave to the previous question. Now that he has conceded for the first time in this place that he was briefed on the cable dated 13 January 2000—saw it, was briefed; whatever—does he recollect that the cable contained the following warnings from the UN office: firstly, that the Iraqis were demanding a surcharge of $US14 per metric tonne for wheat, which would be paid outside the oil for food program? Does he recollect, secondly, that the funds were to be provided into a bank account in Jordan? Does he recollect, thirdly—

Mrs Bronwyn Bishop—Mr Speaker, I raise a point of order. Under the standing orders, a question already answered fully is not permitted to be answered again. This question has already been answered on a number of occasions, and it is quite out of order.

The Speaker—The member for Mackellar will resume her seat. The Leader of the Opposition has not completed his question. I am listening carefully. I call the Leader of the Opposition.

Mr Beazley—Does he recollect, thirdly, that the cable said the system was designed to provide illegal revenue for Iraq in US dollars? Does he recollect, fourthly, that the cable said the United Nations believed the company involved in the scheme was owned by the son of Saddam Hussein? Does he recollect, fifthly, that AWB had concluded contracts of a similar nature to this with the Iraqi regime? Minister, how could you have satisfied yourself that this matter was properly looked at by a few phone calls to AWB and will you now go to the Cole inquiry and discuss the content of this cable and the other matters contained in this appalling scandal?
Mr DOWNER—Obviously, this happened six years ago, but I have had the opportunity during the last few weeks to examine all of this material again very carefully, which is why I know so much about it today, 28 February 2006. These are cables from early 2000, but I do know a lot about them and I have examined this material very carefully. I have done more than that: I have had to satisfy myself that my department responded appropriately to these allegations. I have done that myself. Of course, the Leader of the Opposition reads out the parts of the cable that suit him, but he does not read out the part of that cable where the UN Office of the Iraq Program noted it had no way of judging the accuracy or otherwise of the claims made. More than that, of course, we knew as time went on that these claims had been made by competitors of the Australian Wheat Board.

What the department subsequently did, which is clear from not only these cables but subsequent material which has not yet been tabled in the Cole inquiry but if the Leader of the Opposition reads out the parts of the cable that suit him, but he does not read out the part of that cable where the UN Office of the Iraq Program noted it had no way of judging the accuracy or otherwise of the claims made. More than that, of course, we knew as time went on that these claims had been made by competitors of the Australian Wheat Board.

What is more, just in case there is any doubt, the Labor Party will make their party political points, but this is all material which has gone to the Cole inquiry—all of it. Mr Cole can make his own decisions and his own assessments. He is probably not driven by the desperation of party politics like the Leader of the Opposition. I suspect Mr Cole may be driven by his record as an objective and excellent judge who is now retired but is a man of great distinction. He will make the decisions about whom he wants to talk to, when to talk to them and how to handle the inquiry. I can only say: thank God the Leader of the Opposition is not trying to conduct an inquiry.

Trade: Exports

Mr HAASE (3.11 pm)—My question is addressed to the Minister for Industry, Tourism and Resources. Would the minister inform the House of the latest export forecasts for Australia’s resources sector?

Mr IAN MACFARLANE—I thank the member for Kalgoorlie for his question and acknowledge his ongoing work in ensuring that the resources sector is promoted in Australia for the work that it does. 2006-07 will be another record year for exports in the resources sector, with ABARE today releasing figures which show that exports will reach an unprecedented $101 billion for minerals and energy. Iron ore exports will rise some 26 per cent to $18 billion and be almost double that which they were in 2004-05. LNG exports are expected to rise 22 per cent to $6 billion, again virtually doubling since 2004-05. Uranium exports are predicted to grow some eight per cent to be worth around $800 million.
All this is very encouraging and this government continues to strive for improvement. The surge in global demand for uranium presents a real opportunity for Australia to build on its export performance. We have some 41 per cent of the world’s uranium here in Australia and, with prices at a 20-year high and rising, there is an opportunity begging for Australia to do more and see these opportunities fulfilled, provided, of course, the rigorous environment, Indigenous, safety and non-proliferation safeguards are adhered to.

The member for Kalgoorlie and, I am sure, the member for Solomon would also reflect on this when they ask about threats to the uranium industry. I need look no further than the policy shambles of those opposite. The Leader of the Opposition says that there is a three-mines uranium policy which still stands even though there are four uranium mines in Australia. The Deputy Premier of South Australia says the policy is ‘idiotic’ and should be scrapped, and I would agree with that. The member for Batman, of course, says the policy does not even exist. It is a joke, quite frankly, and it is costing Australia. Even as recently as last weekend we saw Eley Griffiths portfolio manager Brian Eley state that the Australian uranium industry is at the mercy of the Labor Party. He said:

It’s not like nuclear power is new—and the Leader of the Opposition should listen to this—

18 per cent of the world’s electricity is nuclear, but mining law is state based and it’s very much a Labor Party debate.

The opposition leader should also note that his colleagues in Western Australia are now agitating for a debate. I urge him to get on with it and produce a coherent uranium-mining policy for the good of jobs, investment and exports in Australia.

Oil for Food Program

Mr BEAZLEY (3.14 pm)—My question is to the Prime Minister. I refer to his statement on national television on Sunday, 12 February that the Cole inquiry had ‘all of the documents’. When did the government provide copies of these four cables to the Cole inquiry?

Mr Downer interjecting—

Mr HOWARD—When was it, Alexander? I will find out exactly when. I will take this question and go through it. When the Cole inquiry was established it sent a group of people to the Department of Foreign Affairs and Trade. My understanding is that they were invited to look at everything. It was made an open book and large numbers of documents were made available. I understand that two very large cartons full of documents were copied and taken away by the Cole investigation. Whether the four cables were in it or not, I cannot tell you. I can find out and give the Leader of the Opposition the exact date, but the reality is that at every point this government has cooperated with the Cole inquiry. We established the Cole inquiry. When there were concerns expressed by the Volcker inquiry at the beginning of last year about AWB and its lack of cooperation, as I have indicated publicly before, I gave very clear instructions to the bureaucracy. I asked the Minister for Trade to write a letter in the strongest possible terms to AWB telling it to cooperate with the Volcker inquiry.

I say to the Leader of the Opposition that in all circumstances the government have cooperated with the established Cole inquiry. We have provided information to Cole and we have responded to requests for information from Cole. If in fact Cole wants anybody in the government to appear before the inquiry, those people so requested will appear before the inquiry. We are now into the
fourth week of questions being asked entirely about this issue, and the Leader of the Opposition and the member for Griffith have not provided one iota of evidence. After all of this effort, they have forsaken time for questions on Medicare, industrial relations and tax. They have decided to ask question after question on this issue. I say to the Leader of the Opposition: I am like the Minister for Foreign Affairs; I like getting questions on this issue. He was jumping out of his skin today to get some questions on this issue because we as a government do not have anything to hide—so much so that we are happy to take these questions. We established the Cole inquiry, and it will go on and reach its own conclusions and then the Australian public will have the benefit of analysing those conclusions.

I say to the Leader of the Opposition: produce the evidence of the government deceit. It is worth reminding him that the original charge was that we were covering something up. They have moved away from that charge and have started to make allegations of deceit. They started to defame, under parliamentary privilege, the reputation of hard-working public servants. The Leader of the Opposition attacked the integrity of the Deputy Prime Minister and the Leader of the National Party, but not in an open question because he is not game to do it. He does not get up in question time and say that he is really to blame. He says it across the table. That is a measure of two things: the lack of evidence to support the opposition’s claim and a lack of straightforwardness on the part of the Leader of the Opposition. This government has been totally transparent on this issue, and this government is very happy to go on taking questions for as long as you like.

PRIME MINISTER

MINISTER FOR FOREIGN AFFAIRS

Censure Motion

Mr BEAZLEY (Brand—Leader of the Opposition) (3.20 pm)—I seek leave to move:

That this House censures the Prime Minister and the Foreign Minister for:

(1) turning a blind eye to stark warnings that AWB was doing illicit business with Saddam Hussein behind the United Nations’ back;

(2) ignoring cables that told the Government in no uncertain terms that this was going on; and

(3) treating this Parliament and the Australian people with contempt by refusing to come clean in this place about the Government’s role in this Wheat for Weapons scandal.

Leave not granted.

Mr BEAZLEY—You just said you wanted to. I move:

That so much of sessional and standing orders be suspended to permit me to move the following censure motion:

That this House censures the Prime Minister and the Foreign Minister for:

(1) turning a blind eye to stark warnings that the AWB was doing illicit business with Saddam Hussein behind the United Nations’ back;

(2) ignoring cables that told the Government in no uncertain terms that this was going on; and

(3) treating this Parliament and the Australian people with contempt by refusing to come clean in this place about the Government’s role in the Wheat for Weapons scandal.

This is the fourth time that a censure motion has been refused by the government on this matter—this the worst scandal that has confronted a national political government in my lifetime in parliament and, I would suspect, the lifetime of everybody here in this place. This is a Prime Minister who was fulminating about two minutes ago on how open and
accountable he had been and how much he enjoyed these opportunities in parliament, yet he has permitted his leader of the House on four separate occasions now to deny a censure motion in this place. I call that cowardly running away. The cables I am speaking about today, which is why we ought to have the censure motion, stand guilty on the forehead of the Prime Minister and his ministers—guilty of turning a blind eye. We got very close to that in the statements of the Prime Minister for Foreign Affairs, and I will get to that.

The government think it is business as usual to do business with Saddam Hussein behind the UN’s back. Now their pathetic defence of stupidity and ignorance is in tatters. Negligence: case proved. Recklessness: case proved. The time for squirming and slithering is over. They have to come clean, front the Cole commission and explain themselves. They have ruined the trade for our wheat farmers and now they are trying to use the wheat farmers as a political human shield. What sort of government is this Prime Minister running? Wages for our troops, millions for their mates, turn a blind eye to warnings. This is not just turning a blind eye. Bronte Moules has poked them in the eye. She said: ‘This is crook. Do something about it. This is serious.’ She said, ‘The Canadians alleged AWB were complicit; check it properly.’ If you turn a blind eye from such a stark warning, you are complicit in corruption. It is seriously corrupt and heads should roll. This is the putrid underbelly of John Howard’s government: forgetful people get $1 million tax-free jobs and the warnings of senior bureaucrats are studiously ignored. They would not listen because they were more interested in protecting their mates than they were in protecting the farmers. That is this government.

The SPEAKER—Order! I ask the leader to link his remarks back to the motion before the chair.

Mr BEAZLEY—The reason we have to have a censure motion on this today is that there is much new information tabled here. The Prime Minister had to say today that the opposition had introduced no facts in this place. In question time after question time, we have introduced documents. We have used documents which have become public. We have used reports from witnesses at the various points of time when warning signals were sent to this government about what was going on with the oil for food program. We have used occasional testimony from individuals who have been involved. We have used materials from the Cole royal commission which, while focused on AWB, have nevertheless had ramifications for this government.

There is only one place in Australia where this government is being held accountable, which is why we have to have this censure motion. There is only one place in Australia, and that is here on the floor of the House of Representatives. Yet, apart from day one, not one censure motion has been permitted. You have the Prime Minister there, with one of those leering grins on his face, telling us all how much he enjoys being questioned on this matter. He enjoys it not one whit because he is totally culpable in this and he knows it. The Minister for Foreign Affairs here at the table is totally culpable as well, and we will get on to the minister here and why the censure motion should be moved in a minute.

The simple fact of the matter is that every element of the case against this government has been proved to the satisfaction of any reasonable person out there. The public of Australia does not believe you, Minister. The public of Australia has made a very clear-cut statement about whether they thought this
government knew everything. The public of Australia has wisely and overwhelmingly come to the conclusion that it did know, and it was reasonable for them to do so.

There is another reason this censure motion ought to be moved today, and that is this admission for the first time today by the foreign minister that he was aware of the content of these cables back in the year 2000, early when these cables were produced. I would suggest to people that they take advantage of what the Minister for Foreign Affairs said when he said we should read the whole cable. They ought to read the whole cable. For that to arrive on the desk of a foreign minister in most places, if a foreign minister was not shiftless, lazy and turning a blind eye, would have set alarm bells ringing that would not have been satisfied with a couple of phone calls between the members of his office or the members of his department and the AWB. This is not a minor thing.

You have to remember what the corruption of the oil for food program meant at the time, why there was such a tight, tough administration of it and why it was supported so very reluctantly by the United States and the United Kingdom. They and many other countries around the place were trying to disarm Saddam Hussein of what they believed at the time was his development of weapons of mass destruction. They were trying to prevent Saddam Hussein developing a military capability whereby he could threaten his neighbours. They were frightened that, if Saddam Hussein was able to trade unfettered in the area of oil, he would use the resources that were obtained by him to rebuild his military, massively oppress his people and use weapons of mass destruction on his own population or on his neighbours.

We all know now that there were many false assumptions about that. But there were not any false assumptions that he was supporting terrorists in Israel and in the areas controlled by the Palestinians. We know that for a fact. We know at least he had a research program associated with weapons of mass destruction, though not deployable weapons, which was what he was accused of at the time. He certainly had a research program and we know he was rebuilding his military and rebuilding his air defences and testing those air defences on the US and UK planes that were flying over the no-fly zones at the time. There was all of that—which is why this was the ultimate, sensitive program. This was not some piece of detritus out there that would occasionally attract the attention of a foreign minister. This was front and centre involved in our relationship with the United States, in our relationship with the United Nations and in our supervision of effective international governance of a person with whom we had previously been to war on behalf of Kuwait and on behalf of the United Nations. This is not a matter of small moment.

Today the foreign minister told us this: \textquoteleft{}I saw the cable which suggested that another outfit performing exactly the same sorts of tasks and seeking the same opportunities as the Australian Wheat Board had been informed of the price of what it was that they had to do. The price of what it was that they had to do was to provide a de facto subsidy that could be realised in US dollars to Saddam Hussein—to an account in Jordan owned by one of the sons of Saddam Hussein. A murderous pair those late sons of Saddam Hussein—a murderous and wretched pair if ever there were one, and known to be wretched at the time.

What the Australian government did when they received this cable was go into closeting mode as quickly as possible—covering and cloistering, covering up. They went straight into cover-up mode: \textquoteleft{}Let us ask a few questions of AWB. Are you chaps doing anything
untoward? You chaps had better start supplying a copy of this contract in a way that will convince the United Nations that there’s nothing untoward here, because you chaps are in a spot of trouble.’ This was not an investigation; it was a tip-off. What you ran was not an investigation, Minister; you ran a tip-off on the AWB. That is what you did—you told them to regularise their affairs so they could get it through the United Nations. That is what you told them to do, and that is what these cables very, very clearly show. You had the warning; you then provided not an investigation but a tip-off.

It is an appalling chapter in the history of this government. I think it is so totally appropriate that, in this week of the 10th anniversary of the Howard government, we have this to symbolise their laziness, their sleaziness, their conniving, their total wretchedness which has represented this government and is why they ought to be censured. (Time expired)

The SPEAKER—Before I call for a seconder, I remind the Leader of the Opposition he should address his remarks through the chair. Is the motion seconded?

Mr Rudd—I second the motion and reserve my right to speak.

Mr Downer (Mayo—Minister for Foreign Affairs) (3.31 pm)—The government does not believe that this motion is worth supporting and that a censure is due. We hold that view for a number of reasons. First of all, when I was first a member of parliament I was in opposition and it seemed to me that the important thing was to attack the government as furiously as you could—and try to make the anger not too confected, by the way. You had to try to create a sense of sincerity and, unfortunately, the Leader of the Opposition fails on that test. Secondly, one of the things that oppositions should be careful of is trying to censure governments every single day of the week, because if you overuse the censure vehicle—

Opposition member interjecting—

Mr Downer—‘Try to censure,’ I said—not that you would succeed. If we were so wretched as the Leader of the Opposition says, the public presumably would hold that view and we would not have won any elections. Or maybe we are wretched—but not as wretched as the Labor Party, which have lost the last four elections. A censure overused is a censure discredited, a vehicle that does not become in the end credible for parliamentary practice. This attempt to censure is completely hypocritical, because the Labor Party’s contention is that somehow the government is involved in a cover-up. That is their contention, and the Manager of Opposition Business—

Ms Gillard—True. It is true.

Mr Downer—says it is true. But they obtained these cables because the government has set up a public inquiry, and these cables have been tabled in the public inquiry. In other words, the government have facilitated the publication of this material. We have made it possible. If the government were involved in a cover-up, we would hardly be having cables published in a public place and allowing the opposition to raise questions about these cables. We are very happy to answer questions about the cables. As to the substance of them, the cables are only a sliver of the total story and I took the time of the House during question time to give the total story. All of the material is with Commissioner Cole and he will make findings on all of these things, which will be findings based on the objective assessment of a judge, not the fulmination of a desperate Leader of the Opposition.

These cables show quite the contrary to what the opposition is claiming. They show that the department was actually assiduous,
that the department followed up the allegations that had been made by the Canadian Wheat Board. It would have paid to have followed through and listened to what was said in question time instead of exploding into confected anger, having of course planned the whole attack before question time regardless of what was said by the Prime Minister or me during question time—it was all planned and the little speech was all typed out for the Leader of the Opposition by his office. What was said in question time was that there were subsequent investigations over quite some period of time which culminated with the department obtaining for the United Nations, the body responsible for the investigation, the key contracts that the United Nations wanted to establish the veracity or otherwise of in these claims by the Canadian Wheat Board. Eventually, and I would have to say, as I put it in question time, without being too judgmental, rather reluctantly AWB Ltd gave up these contracts to DFAT and these contracts were given to the United Nations. They examined the contracts. Nobody had hindsight, but for right or for wrong—and the Cole inquiry will establish this—the United Nations drew the conclusion that these contracts were actually in order. Maybe they were, maybe they were not, but there was no evidence at that time that these contracts were not in order. This matter is certainly not worthy of a censure. This is easily answered and easily dealt with, as the Prime Minister and I, I would have thought, had rather comprehensively demonstrated during question time.

I will make one final point. Unfortunately I was away yesterday. I hate to be away from the House because I like question time, I like the procedures of the House and I enjoy parliament. But I was in Jakarta, so I was not able to be asked questions. I noticed that the opposition yesterday spent a good deal of time, including in the media subsequently, attacking the personality of Trevor Flugge. Let me make this point about Trevor Flugge—

Opposition member interjecting—

Mr DOWNER—No, this is not worthy of a censure, because Mr Flugge is a decent and honourable person and that was the basis on which we employed him. The allegation against him that he is deaf and therefore he should be mocked for being hard of hearing is something I think a lot of Australians will take a very dim view of. This couples with the Leader of the Opposition allowing the attack by the member for Wills on the member for Gwydir through the media. The Leader of the Opposition approved that attack. He hid of course; he did not like to show. He thought it was a bit dirty for the leader to be seen to be involved, but the Leader of the Opposition is responsible for that grubby attack. The Leader of the Opposition loves, as he did on the Sunday TV show, to drag the names of departmental officers into this whole debate. Imagine how those officers feel when they see somebody fulminating about them on a television program for their own personal political advantage. It is very ugly. I will tell you something, Mr Speaker: I defend these people. These people indeed work—

Mr Beazley interjecting—

Mr DOWNER—Alistair Nicolas did not work in my department; he worked for AusTrade. But I share a department with the Minister for Trade. Some of these officers work in my department. The Leader of the Opposition singled out particular people in a television interview. This causes these people great pain. I will say more than that: these are good people, who work hard, and they are decent people, and they do not deserve to be dragged through the mud by the Leader of the Opposition.
The Leader of the Opposition wants to move a censure motion here, a confected argument based on the fact that the government has made available documents. The government made available documents to Cole, which have been tabled in the Cole commission. The Leader of the Opposition argues that this is a cover-up. It is a cover-up but the government makes the documents available through a public inquiry that the government established! It beggars belief that that could possibly be a cover-up.

The point we make is that, unlike at least 63 of the 66 countries that had companies involved in oil for food rorts according to the Volcker report, we want to get to the bottom of this. The government thinks that it is best for Australia that we deal with this up-front and in a transparent way—and if there are eventually to be prosecutions that should happen. If we wanted to do what other countries have decided to do, we would have just referred this matter to the Federal Police or to the Australian Crime Commission or whatever. Of course the government could have done that. That was absolutely an option for us. That was an option we considered, and we decided we would not do that. We decided that what we would do was set up a transparent public inquiry. And when it comes to this point about whether the Cole commission’s terms of reference have anything to do with the government—of course they do.

Mr Beazley interjecting—

Mr DOWNER—The Leader of the Opposition is not forensic. He does not do the work. He is lazy and he does not do the work. You can see that on TV shows in the mornings when he does the interviews: ‘Oh, I haven’t read that; I don’t know about that.’ No, because he does not do the work.  

Mr Rudd—Mr Speaker, I rise on a point of order. How is this faintly relevant to the motion before the House?

The SPEAKER—There was a wide-ranging motion moved. I call the Minister for Foreign Affairs to speak to the motion.

Mr DOWNER—I am just making the point that, if the Leader of the Opposition were a little more forensic, he would know what Commissioner Cole said: that if the AWB had been lying to the government—including departmental officers—that is potentially an offence and he therefore has to establish whether the government knew about the kickbacks or whether it did not. If the government knew about them, then AWB would not be misleading the government. The fact is that the Leader of the Opposition’s attempt to move a censure is another explosively failed attempt to try to rebuild his leadership at a time when it is tragically failing.

Mr RUDD (Griffith) (3.41 pm)—Why is this suspension motion of urgency before the House to consider? Because among other things we have a Minister for Foreign Affairs who presents himself in the parliament, slapping himself and the government on the back because they have been oh such good boys. They have said that there are 65 countries involved in the oil for food program scandal, involving 2,200 companies around the world—but which mob got the gold medal? Answer: AWB, approved by the minister scuttling out the door of the chamber right now. They got the gold medal because the $300 million they tipped into Saddam Hussein was bigger by a factor of five or six compared with the company that came second. They ask in this place: aren’t they good boys for setting up an inquiry they had no alternative but to set up, for the simple reason that this is a scandal of monumental proportions not just in Australian political hist-
tory, not just in Australian corporate history but in terms of the world itself when it comes to the breaching of sanctions against Saddam Hussein’s regime?

Why is it so urgent that the House consider this suspension motion? The matter contained within it goes to the core of negligence on our national security and damage to our exports—negligence and damage that have been caused by this government failing to respond in any way to the 17 warnings we have documented so far that they received and turned a blind eye to. This is a government that did not do its job. This is a government that has instead had its energy focused on its short-term internal political interests, not the long-term national interest.

The reason this motion is particularly urgent is that, quite apart from the 17 warnings we have documented so far—warnings from the United Nations, warnings from the government of Canada, warnings from Australian wheat farmers, warnings from the intelligence community, including the Central Intelligence Agency of the United States, warnings from their own government officials and even warnings from good old cowboy Trevor Flugge through the communications that have come through the Coalition Provisional Authority in Iraq—the government could not find anything that was sufficiently meritorious for them to act on.

But the reason why this matter is of such urgency for the House to consider is that, in the four cables that have been presented today in the Cole commission of inquiry, we have new information. It is brand new. This is not generic in terms of something that might have been going wrong with the oil for food program here or there. This is information that is direct, explicit and specific. It is about the detail of what was alleged that the AWB was up to—and our fearless friend the foreign minister, in question time today, dropped himself right in the middle of it. He is always going a step too far, our Alex. He is always wanting to prove what a fine fellow he is in his parliamentary performance. He went a step too far when he actually told the truth to the parliament and said this: ‘I personally received these cables, I personally was briefed on these cables and I personally read these cables.’

So what was contained in these cables that our fearless foreign minister has today admitted to receiving, being briefed on and having read? These cables from January 2000 say—and I emphasise the specificity of what is contained in the documents—first, that the Iraqis were demanding a surcharge of $US14 per metric tonne for wheat, which would be paid outside the oil for food program; second, that the funds were to be provided into a bank account in Jordan; third, that the system was designed to provide illegal revenue for Saddam Hussein’s regime; fourth, that the company was supposed to be owned by Saddam Hussein’s son; and, fifth, that the AWB itself had concluded just such a contract with Iraq.

How on earth could you claim, as the foreign minister has done in parliament, that this was not explicit, direct and indeed alarming information about the activities of the AWB? His public claim up until now was that it had all been someone else’s fault, all the AWB’s fault. This minister has today admitted in parliament that he personally received this information. This minister’s defence, in terms of what he did with it, was that his department made a few phone calls to the AWB and the AWB chaps said it was all fine. The government say this is all about accountability. They want plenty of questions but they scurry from this place when a censure motion is on. Where is the Minister for Trade, Mark Vaile? Jeannie Ferris, who went with him to Iraq, has mysteriously reap-
peared in the Senate today. The trade minister has not reappeared in the House. They
deserve to be censured. *(Time expired)*

**Question put:**

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

The House divided. [3.50 pm]

(The Speaker—Hon. David Hawker)

<table>
<thead>
<tr>
<th>AYES</th>
<th>58</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noes</td>
<td>82</td>
</tr>
<tr>
<td>Majority</td>
<td>24</td>
</tr>
</tbody>
</table>

**AYES**


Question negatived.

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

**PERSONAL EXPLANATIONS**

Mr BEAZLEY (Brand—Leader of the Opposition) (3.56 pm)—Mr Speaker, I wish to make a personal explanation.

The SPEAKER—Does the honourable member claim to have been misrepresented?

Mr BEAZLEY—Yes, I was misrepresented by the Minister for Foreign Affairs.

The SPEAKER—Please proceed.
Mr BEAZLEY—The Minister for Foreign Affairs, both in question time and then subsequently in the speech just made, suggested that I attacked the character of three individuals who were Department of Foreign Affairs officers or Austrade officers and had previously served in offices of the Deputy Prime Minister and other ministers. I did absolutely no such thing. On the Sunday program when that matter was mentioned I quite explicitly said I thought it was a good thing that they had served in ministers’ offices and then served in the Public Service. What I said at the time was that it made any suggestion that information could not get into—

Mr Hunt interjecting—

The SPEAKER—Order!

Mr BEAZLEY—Idiot Boy, be quiet while I am talking!

The SPEAKER—Order!

Mr BEAZLEY—It meant that it was entirely credible to suggest that they would at least know how to ensure documents that ministers needed to see went to ministers’ offices.

The SPEAKER—The leader has made his personal explanation.

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

The SPEAKER (3.58 pm)—I inform the House that I have received a copy of a resolution passed by the Legislative Assembly of the Northern Territory on 16 February 2006 relating to foreign fishing incursions in Northern Australia. I do not propose to read the resolution to the House. Copies have been placed on the table and the full text will be recorded in the Votes and Proceedings and Hansard.

The resolution read as follows—

That this Assembly—

(a) express its serious concern about increasing illegal foreign fishing incursions in our waters and foreign nationals establishing camps throughout northern Australia;

(b) note that these increasing incursions threaten not only the sustainability of our shark and other fisheries, but place our bio-security and national sovereignty at great risk;

(c) call upon the Commonwealth government to agree to fund the expansion of the indigenous Marine Ranger program throughout northern Australia as a matter of urgency;

(d) call upon the Prime Minister to personally convene an urgent summit of all relevant Ministers and stakeholders to develop a National Strategy to combat foreign fishing vessel incursions throughout northern Australia, noting that actions by a raft of federal agencies have thus far failed to deter illegal incursions; and

(e) through the office of the Speaker, forward the terms of this motion and associated debate to the President of the Senate, the Speaker of the House of Representatives, the Prime Minister and the Leader of the Opposition in the Commonwealth Parliament.

Mr Beazley—Mr Speaker, can I move that the House take note of the paper?

The SPEAKER—I am informing the House.

AUDITOR-GENERAL’S REPORTS

Report No. 30 of 2005-06

The SPEAKER—I present the Auditor-General’s Audit report No. 30 of 2005-06 entitled Performance audit: the ATO’s strategies to address the cash economy—Australian Taxation Office.

Ordered that the report be made a parliamentary paper.

DOCUMENTS

Mr HOCKEY (North Sydney—Minister for Human Services) (3.59 pm)—Documents are presented as listed in the schedule circulated to honourable members. Details of the
documents will be recorded in the Votes and Proceedings.

QUESTIONS TO THE SPEAKER
Legislative Assembly of the Northern Territory

Mr PRICE (4.00 pm)—Did the minister at the table make the letter from the Legislative Assembly of the Northern Territory a parliamentary paper? If he did not, will you request that the letter from the Legislative Assembly of the Northern Territory be listed on the Notice Paper, as it is an important communication?

The SPEAKER—I thank the Chief Opposition Whip. I informed the House that I have received a copy. I said that I did not propose to read the resolution but that copies have been placed on the table and that the full text will be recorded in the Votes and Proceedings and in Hansard.

Mr PRICE—Would you consider listing the letter on the Notice Paper so honourable members may cogitate about the letter and see what action we need to take, if any, in response to it?

The SPEAKER—that is a matter for the House to decide; it is not a matter for the Speaker. The House may choose to do so.

Mr PRICE—Thank you for that helpful advice. I seek leave to move such a resolution.

Leave not granted.

MATTERS OF PUBLIC IMPORTANCE
Oil for Food Program

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

The failure of the Government to properly account for its role in the continued abuse of United Nations Iraqi aid programs following the downfall of Saddam Hussein

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 RUDD (Griffith) (4.01 pm)—Let me stand back from this thing called the wheat for weapons scandal. At times like this in the debate we have to ask ourselves what it all means for Australia’s national interest. It is important to put it in short, sharp and stark terms. What it means is that there has been negligence in terms of this country’s national security interests; damage to this country’s export interests and our economy overall, and the wheat farming interests of our nation in particular; and that as the debate has unfolded the government, with control of the Senate, is becoming a government increasingly out of control and a government increasingly focusing on its short-term political interests and not on the long-term national interest.

Let us go to the first of these points, which deals with negligence in terms of the nation’s security and our broader national security interests. What we have presented so far in this debate, which has now raged for some months, is a series of warnings—17 in all—received by the Howard government. Each of them were dismissed in order. Their attitude to each of these warnings was, ‘There’s nothing in those warnings which would cause the government under any circumstances to believe that it should inquire more thoroughly about what the AWB was up to in Iraq.’

Today we had a major addition to those warnings in the four cables that have been released, cables which go to the very detail of the information which had been provided by the United Nations through our mission in New York—coming originally from the government of Canada—to foreign minister
Downer’s office, where the matter then died. That is what happened: it just died. Nothing was done. That is the cold, hard reality coming out of everything that this minister had to say today.

I spoke also of not just negligence regarding national security but of damage to our exports. You would know, Deputy Speaker Scott, how important the grain industry is to our country’s economy. You would know the importance of the grain industry to your own electorate. You would know what would happen if the international reputation of Australia’s export monopoly, the AWB, was to be seriously damaged by the inaction of the Howard government in ensuring that the AWB was doing the right thing.

I would assume, Deputy Speaker, that a person such as you would find it of grave concern if the AWB was up to things and your government, of which you are part, was not taking proper action to ensure that it was not rorting UN sanctions against Iraq and not rorting the oil for food program under the United Nations to the long-term damage of the reputation of Australia’s hardworking wheat farmers. I would have thought, Deputy Speaker, that, coming from the part of Queensland that you do, you would have been actively concerned about that.

I have spoken about negligence regarding our national security—17 warnings were dismissed—and damage to our nation’s export interests, including our hardworking wheat farmers. But the other thing which this whole debate brings to the surface is the arrogance of the government.

Not only was the Volcker inquiry, which was established by the United Nations, not provided with all the documentation in the government’s possession on this wheat for weapons scandal but the Cole inquiry was given limited terms of reference by the Prime Minister so that it would not focus squarely on making findings on the competence and due diligence of the ministers charged with responsibility for our end of the oil for food program. For Volcker, there was minimal cooperation; for Cole, there are limited terms of reference—and certainly no capacity to make findings on the competence of and the due diligence executed by ministers.

So that leaves the parliament to do the job. Because Volcker was short-changed on information and Cole was short-changed with his terms of reference, we are left with this parliament—this institution—where our job is to hold the executive accountable. What has happened here? Since the government gained a majority in the Senate, we have seen arrogance unplugged from the Howard government. It is not possible to launch a Senate inquiry which would cause this government any form of political embarrassment. Then there were the extraordinary measures taken two weeks ago to ensure that public servants would not answer the most basic questions of fact before Senate estimates about this wheat for weapons scandal.

We are left with this chamber, the House of Representatives, where any question of the most basic factual nature concerning the responsibility of these ministers for this scandal have to be asked. Once again, what do we encounter here but arrogance unplugged, as each question we ask of a factual nature of ministers opposite is dismissed. The questions are not answered, or the answer is delayed to another day, or ministers fly to the other end of the earth in order not to be here to answer them.

That is where we come to with these most recent developments in the ‘wheat for weapons’ scandal. But with matters now before the Cole inquiry we are about to enter a whole new phase. What I would like to do today in this matter of public importance debate is to begin to describe the chapter
which is about to unfold. It is a brand-new chapter. It is postwar Iraq, the period in which this ‘wheat for weapons’ scandal had another 18 months to run. Let us put all this into a bit of context. The first corrupt payments on these contracts occurred when? It occurred in November or December 1999, a month or two before Foreign Minister Downer got the cable which we have been debating in the parliament today, a cable which warned him that something was up with the AWB’s dealings with the Iraqi regime. Had he acted with due diligence at that time then this scandal would not have unfolded. $300 million would not have been paid to the Iraqi dictator and the five years of scandal which unfolded would not have occurred. On top of that, the damage to our national security and our export interests would not have been as severe. But the minister did not do his job.

In the 3½ years from the end of 1999 through until the Iraq war in March 2003, there were literally tens of contracts approved by the Department of Foreign Affairs and Trade from the AWB, with the money then being paid from the oil for food program into the AWB’s bank account, off to a bank account in Jordan and then into Saddam Hussein’s coffers so that he could buy some guns, bombs and bullets for later use against Australian troops—and we suspect he possibly also drew on those funds to pay $25,000 to the families of Palestinian suicide bombers. But that is all up until the war. The war happened in March and April 2003. The saga which is about to unfold through the matters before the Cole inquiry at present and the broader debate on these matters is what happened in the 1½ years after the war, before this $300 million rort was finally closed down.

The Prime Minister said something very significant in his interview with Kerry O’Brien on The 7.30 Report a couple of weeks ago. The Prime Minister was defending himself about why no action was taken in response to the 17 warnings the government had received, including the startling information revealed for the first time today in parliament in those cables of early 2000. What was the Prime Minister’s defence? It was a very interesting form of words he used. I am sure the Prime Minister’s office is watching—think carefully about this. What he said was: ‘When the war happened, the dam burst. The information started to flow.’ That was in March and April 2003. What information started to flow? What we know is that after the war the occupying forces—including the United States, Australia and the United Kingdom—captured all the senior Iraqi officials, including those in the agriculture ministry and those in the Iraqi Grains Board. All the people on the corrupt end of the deal were suddenly under our control.

What else did they get when, as the Prime Minister said, the dam burst? I will tell you what else they got: they got a truck load of documents. On top of that, as part of that truck load of documents, they got some really stinky ones, ones which we suspect had a few letters attached to them—the letter A, the letter W and the letter B. A bit of a problem starts to emerge at this point. Of course, by this stage you have the entire country crawling with the intelligence community, sent by the CIA under the auspices of the Iraq Survey Group to track down the much belated and still missing weapons of mass destruction. But while they were doing that through the Iraq Survey Group they were unearthing the money trail. The money trail, of course, came out of the oil for food program. They were trying to work out where all this money came from that Saddam was out there trying to buy weapons on the international market with. It came off the back of this rort which had been running since 1999.
So when the Prime Minister blurs it out on national television to defend himself from attack but in fact opens himself to a fresh new flank, he is admitting that this whole bucket load of information started coming his way. But here is his problem: this was in March, April, May and June 2003. You would think these blokes who call themselves the government—they take the pay cheque—having finally got that information, would have shut the rort down. It ran for another year and a half. Another great truck load of contracts gets approved and another series of rip-offs of the UN bank accounts occur, and all this goes on while this mob, the government—the Prime Minister and Fairy Floss, the foreign minister—are out there running the country and being the co-governors of Iraq. They control the country.

Then what happens in this period? Enter Trevor Flugge, the chap who is up before the Cole inquiry right now, John Howard’s Million Dollar Man—no longer Seven-hundred Thousand Dollar Man but Million Dollar Man. Note carefully today, honourable members, the response by the Minister for Revenue and Assistant Treasurer, from Queensland, Mr Dutton. He basically confirmed, if I heard him right, that there may have been a few tax concessions associated with that $1 million payment as well. Could it have been $1 million tax free? We do not know yet. We would like some confirmation from the government as to what exactly was the case. But Million Dollar Man is out there from this time on not as an AWB representative but as the Howard government’s representative. He has changed hats. He is there representing the interests of John Howard, Alexander Downer and Mark Vaile. He is there in the field together with Mr Long, formerly of the AWB as well.

It is in this period that we find these individuals involved in providing advice to the Coalition Provisional Authority—on what? On what should happen with the continuation of these wheat contracts with the Iraqis. Suddenly the poacher has become the game-keeper. He has been allowed into the nest. We find that these AWB representatives—now Howard government representatives—are in Iraq, the engine room of the Coalition Provisional Authority, with all this information flowing in from the intelligence community, the captured documents and the interrogated Iraqi officials. Doesn’t this present an interesting set of circumstances? You have Mr Flugge there sitting in the Coalition Provisional Authority with 29 or 30 other Australians and suddenly all this information starts to flow in the door. What do you do with it? This is the story yet to be told.

In those critical months of March, April, May and June 2003, we have a really stinking cat thrown onto the table, and all this information starts to unfold. It comes to the surface in about June 2003 when Mr Long—formerly of the AWB and now in the Howard government’s employ—sends back a memo to Canberra saying: ‘Good, God! We’ve got a memorandum of instruction from the Coalition Provisional Authority which says that there have been kickbacks attached to these contracts with the Iraqis. What are we going to do about that?’ In that cablegram they say that a list has to be prepared of all the contracts that have been done with Iraq, putting those with a 10 per cent kickback attached to them on one side of the ledger and, on the other side of the ledger, those which do not.

In the weeks and months that this debate has raged, the government have failed to answer what they did to pursue whether or not AWB fell on the wrong side of that ledger, that list or that matrix which was being prepared. Throughout this period of time, you have Mr Flugge—with gun in hand and presumably a bucket of cash provided by the Howard government as well. I have noted carefully the Prime Minister’s belated re-
response to my question yesterday that Mr Flugge has been out there doing a job on behalf of the Howard government. That is where the debate is about to unfold to.

This whole 18-month, postwar period points not just to incompetence or negligence but to a government doing much more than turning a blind eye. Throughout 2003-04, when the corrupt contracts are continuing to roll, the government is in control of the government of Iraq itself and the entire information flow. This is where the debate will now go. Mr Flugge is central to this story. He is Mr Howard’s personally chosen representative—his own personally selected million dollar man—the man sent there to do a job in Iraq. They certainly did a job on Iraq. Whether they did a job for Iraq remains to be seen. We intend to pursue this new chapter in the $300 million ‘wheat for weapons’ scandal, until we have the truth out of this government once and for all.

Mr BAIRD (Cook) (4.16 pm)—I rise today to participate in this MPI debate on the oil for food program, which is becoming increasingly like Days of our Lives. It is constantly going into repeats, with the same old facts rehashed and the same old figures and the same old personalities coming out. What is missing in this whole exercise is the smoking gun. The opposition smear, make allegations and try to reduce the reputation of ministers in this House over this issue. The Leader of the Opposition has boldly said that the case has been proved, but on this side of the House we are still waiting because clearly the case has not been proved at all. The opposition would like to see clear evidence which shows that the ministers knew all about these allegations and did nothing or, alternatively, that they knew all about them and decided for various reasons not to become involved.

The fact is that, despite all of the allegations by the opposition, despite all of their efforts—there has been a failed censure motion, this is the second MPI that I have participated in and they have concentrated on this issue in every question time in the House over the past four weeks—and despite all their huff and puff and bravado, not one scintilla of evidence has shown that the hands of the Minister for Foreign Affairs, the Prime Minister, the Minister for Trade or any of the people mentioned as being involved in this series of allegations are culpable in this exercise.

All members on this side of the House would agree that this was a scandal. It was highly inappropriate that it took place. Of course, with the benefit of hindsight, the opposition make these claims. But during all those question times in the House and with all the evidence that they had, the opposition did not raise one question about this matter in the House, in committee meetings of any kind or in estimates debates. So sure are they in running a continuous program on this issue—Days of our Lives—for all to see and repeating the allegations that the allegations will find traction. The fact is that those allegations have not been proven. It has not been found that the ministers or the Prime Minister were involved in this case, and that is where the opposition founder on this whole exercise.

What was the appropriate action for the government to take in this matter? Was it simply to say: ‘Let’s just appoint one of our mates. He’ll do a quick fix, declare there was nothing wrong here and it will all be over and done with. Will we refer it to the Australian Crime Commission to see whether there is a case to answer, and then we can get on with the task? Will we refer it to a parliamentary committee, have a quick review or what?’ The government appointed a full inquiry into this issue. The Cole inquiry has
full and absolute powers. It has the powers of a royal commission. No other form of inquiry has this high level of skill to investigate whatever it needs to and to talk to any person about any matter at any time.

The opposition say that the government are just trying to shirk their responsibility and are trying to brush the whole thing aside, but the reverse is the case. The reverse is that you have a high-profile, high-scale inquiry, where every document requested by Mr Cole has been provided and where every witness who has been asked to appear before Mr Cole has also been provided. Just last week it was reported in the news:

Commissioner Terence Cole has invited any MP, journalist or public servant to assist inquiries into “the actual or constructive knowledge of the Commonwealth”.

In other words, that ministers and their staff, senior public servants, including those in the Prime Minister’s office, knew what was going on with respect to all these allegations. Mr Cole has invited all these people with their conspiracy theories—and the opposition is included in this—to come forward. Every piece of evidence that they can provide has been requested by Commissioner Cole: ‘Come forward; show us what you have.’ The reality is, as we all know, that they will not be able to provide that. We have talked about the cables that came to the department. There is no doubt that these cables are important. But it also has to be placed in the context of when they were sent and how they were sent. It is not like a normal diplomatic exchange on Australia’s reputation et cetera. We were in a very competitive international marketplace and they will use any means that they can. They hear the rumour—in they go. It is in that context that these cables came into the various offices saying that these allegations had been made. Of course people would say, ‘This is only our competitors having a stir,’ and so it is brought forward. The opposition would say this is an issue about which we could all be sure that everyone knew and accepted as fact. But the fact is it was a market situation and one of our competitors was making an allegation and nothing more than that.

Commissioner Cole has the power and the level of knowledge within every area of government to investigate all of it. Any correspondence, letters, emails and phone calls that came through to the government are there. He has the power to look into it. Of course, some of the revelations that have come forward have been disturbing. But the government is trying in a totally honest and open way by saying: ‘Let’s put it all out on the table and what falls falls. Let’s see who was involved. Let’s see which officers may have been involved in this case and did nothing. Let’s look at the actions of the AWB and which executives of that organisation were involved. Why was this not picked up before?’ Of course, we have to ask the question at the same time: why did the UN inquiry not pick it up?

Remember that it was not as though there was no inquiry and suddenly the matter came to light. The United Nations, which is the peak world body, set up a committee whose sole purpose at that time was to look at this oil for food program. They had the allegations from the Canadians; they had the allegations from the Americans. It was their task. They were trusted with the full investigation of this inquiry.

Did the Australians simply come in and say that this was total nonsense and that they
would not participate in this program? Not at all. It was a full inquiry and it concluded—in retrospect, it was not an appropriate conclusion—that the allegations were unfounded. All the huff and puff from the opposition would seem to ignore the fact that it was a UN inquiry—it was not a coalition party inquiry—that said the allegations were unfounded. So you could hardly blame the ministers involved if they were told, ‘The UN inquiry found that there was no basis to these allegations,’ and they then did not turn everything upside down and ask, ‘What is the real situation?’ because the inquiry had happened and those were its findings.

As we moved on to the Volcker inquiry, set up by the UN to look at the matter in more detail, this government then cooperated to the fullest extent with Volcker. There was no hiding of documents; there were no quiet words in his ear about any of it. Everything was provided. The government took a totally open approach to the Volcker inquiry, where everything became public. The role of Alia in transporting the AWB wheat was known. Once that came to light, the Prime Minister decided on a full-blown inquiry with royal commission powers to investigate this matter.

The opposition want to make quick conclusions and make allegations. I notice the member for Wills is in the chamber, and he has been making allegations about the member for Gwydir—that he was selling his shares and so on. I have discussed this with the member for Gwydir. That allegation was absolutely totally outrageous and well you know it. There is not a more honest man in this House than John Anderson, the member for Gwydir. To go around and simply slur people’s—

Mr Kelvin Thomson—Go and talk to Tony Windsor!

Mr BAIRD—Tony Windsor we all know, because he has always been jealous. Because he missed out on his preselection for the seat of Tamworth, he has never got over it. So he has this whole psychological thing with the member for Gwydir because the member for Gwydir did what he could never do—that is, become the Deputy Prime Minister. He did a fantastic job, he is a man of incredible repute and what do the members opposite do? They just slur his reputation—they do not care—‘Let’s throw it around. He sold his shares; he knew all about it.’ He was sitting on the back bench then. We on this side of the House think that type of approach is to be absolutely condemned. It is typical of the way the opposition have gone. With little evidence, they simply smear the reputations of the ministers and the Prime Minister, saying, ‘They all knew all about it, and they in retrospect were so wise and would have done that.’ Of course, the reality is quite different. The matter was investigated by the UN; it was investigated by Volcker. We have set up a full inquiry and I have not heard anybody say, ‘You should have set up a different type of inquiry.’

Mr Kelvin Thomson—Terms of reference!

Mr BAIRD—Well, they did initially, about the terms of reference. The Prime Minister has said that anybody can be called before the inquiry. He will not stop anybody, whether they are a government minister or a senior public servant. That is why Commissioner Cole has called for anybody, if they know of evidence—

Mr Hockey—Are they putting in a submission? Are the Labor Party putting in a submission?

Mr BAIRD—That is right. We would ask you whether you are ready to appear before the inquiry as well. There is no obstacle to prevent anybody in this land being called
before that royal commission. If the member for Wills knows of anyone who is prevented from appearing then we would like to know, because the Prime Minister has made it very clear that everybody is available to go before it. Isn’t this what you would do if you had an issue? And there is the member for Windsor—

The DEPUTY SPEAKER (Hon. BC Scott)—New England.

Mr BAIRD—I am sure with another allegation against the member for Gwydir, having his normal jealousy of the member for Gwydir, but the reality—and I am sure he would consult with the member for Wills—

Mr Windsor—Another bribery scandal, Bruce; another bribery scandal!

Mr BAIRD—I am sure you would love to have one, but it will not happen for you, regardless. What we have seen is an ill-founded attack, when the government has done all in its power to have a full, open, transparent inquiry where anybody can be called before the inquiry, where the commissioner has full royal commission powers. He can ask for any papers to be provided.

The bottom line is that, despite the claims from the Leader of the Opposition that the case is proved, the fact is that the case has not been proved. We are waiting for fair justice, for the commissioner to bring down his report, bring down his recommendations and make his findings and not to be subject to all these allegations, smears and innuendos that we get from a whole lot of members opposite, when the reality is that the government is doing absolutely the right thing. It is clear, transparent and evident to everybody. This government means to do business, and it is doing the right thing in terms of this inquiry.

Mr KELVIN THOMSON (Wills) (4.31 pm)—In Australia, we love our sport. In my own home town of Melbourne, we are getting particularly excited by the Commonwealth Games just around the corner. One thing we do not tolerate is cheating in sport. We hate cheating. We hate performance-enhancing drugs. It is not the Australian thing to do. Unfortunately, we now know that our wheat-exporting monopoly, AWB, was the gold medal winner for kickbacks in Iraq. Those $300 million in inland transportation fees were the performance-enhancing drugs, the steroids, of AWB’s wheat trade in Iraq.

But government ministers, from the Prime Minister down, want us to believe that they knew nothing of what was going on. They make a virtue of their incompetence. They revel in their incompetence. But, with every passing day, this Sergeant Schultz claim that ‘we knew nothing’ becomes less and less believable. Just yesterday, the member for Gwydir, former Deputy Prime Minister Anderson, stated that the Prime Minister asked him early last year what he thought of AWB executives. The member for Gwydir says the conversation was cut short, so I guess we will never know why the Prime Minister was seeking his opinion on the calibre of AWB personnel.

But this is the same Prime Minister who told us in January:...

... there were no alarm bells. There was no suggestion, there was no evidence before us that AWB was paying any bribes.

Well, Prime Minister, there were alarm bells ringing in Canada, there were alarm bells ringing in the US, there were alarm bells ringing in Iraq, there were alarm bells ringing at the UN, and there were even alarm bells ringing at farm machinery days in the Victorian Mallee. It seems that the only people who could not hear them were the Prime Minister and Trevor Flugge. How are we supposed to reconcile the Prime Minister’s claim that there were no alarm bells with the member for Gwydir’s statement that the
Prime Minister raised the character of AWB personnel with him? Why did he ask, if not because alarm bells had started to ring?

And how are we to reconcile this with the Prime Minister’s statement that the AWB people were ‘a very straight up and down group of people’? He said: ‘I can’t, on my knowledge and understanding of the people involved, imagine for a moment that they would have been involved in anything improper.’ On what did he base that assessment? It seems to me that, by the time he made it, he must have realised the seriousness of the issue, so he was basically trying to put one over the Australian people in the same way that the government tried to put one over US senators Tom Daschle, Patty Murray et cetera.

This matter of public importance provides us with the opportunity to condemn the government’s continuing refusal to answer questions about its role in the ‘wheat for weapons’ scandal. I lament the way the government is treating this parliament with contempt, stonewalling questions in this House and shutting down the Senate estimates committees. I remember that when the Prime Minister won control of the Senate he said he would not abuse his newly won power. It did not take long for that promise to vanish—just another non-core promise lying dead on the road.

There are many questions which remain unanswered. For example, AWB’s public and government affairs manager, Darryl Hockey, a former adviser to the member for Gwydir, Mr Anderson—it really is hard to know where the Wheat Board stops and the National Party begins—has stated that he specifically asked Minister Downer’s office and Minister Vaile’s office to say nothing about the sale of wheat to Iraq in December 2002. Given that governments are normally falling all over themselves to announce large wheat sales as good news, you would think that that request for confidentiality would have struck the ministers, in the words of the Prime Minister, as ‘passing strange’ and rather irritating. So the question I have for these ministers is: did they make any inquiries about why they were being asked to keep quiet about the sale and, if they did make any inquiries, what were they told? What did they find out?

The government also has to tell us on what basis it agreed to pay Mr Trevor Flugge, the former National Party candidate, $978,000 from the foreign aid budget for eight months work in Iraq after the fall of Saddam Hussein’s regime. What were Mr Flugge’s qualifications to be paid so much? What did Australians get for our million dollars? Why did the money come out of the foreign aid budget? I thought the aid budget was to feed starving people, not to make millionaires out of unsuccessful National Party candidates.

After the fall of Saddam Hussein’s government, the Howard government sent Mr Flugge to Baghdad and paid him $978,000 from our aid budget for eight months work because he was such a great communicator. Yesterday he told the Cole commission he is pretty much deaf—he has a virtually ineffective left ear and a right ear which is somewhat impaired. Mr Flugge’s hardness of hearing came in relation to the subject of trucking fees being raised at a 1999 dinner where AWB executives were present. Mr Flugge wanted to take issue with AWB whistleblowers who claimed that the fees paid to that truckless Jordanian trucking company, Alia, were a means of paying kickbacks. The whistleblowers have told the Cole inquiry that Mr Flugge had approved the use of the London based trader Ronly Holdings, where his daughter worked as a junior administrator, as a middleman to pay the bribes. I believe the whistleblowers. I find it absolutely
unbelievable that the government should have been paying Mr Flugge $978,000 from our aid budget for an eight-month consultancy job in Iraq.

That was yesterday; there is something new every day. Today we learn that there are cables from early 2000 from the Australian embassy to the United Nations in New York which expressly warned the government, first, that the Iraqis were demanding a surcharge of $US14 per metric tonne for wheat which would be paid outside the oil for food program; second, that the funds were to be provided into a bank account in Jordan; third, that the system was designed to provide illegal revenue for Iraq in US dollars; fourth, that the UN believed the company involved in the scheme was owned by the son of Saddam Hussein; and, fifth, that the AWB had concluded contracts of a similar nature to this with the Iraqi regime. The cables also say that another national wheat supplier had specifically rejected these approaches having been advised by the United Nations that accepting any such arrangement with Iraq would not be permissible under the oil for food program.

In the parliament today, the Minister for Foreign Affairs, Mr Downer, admitted that he had seen these cables. The media have been clamouring for a smoking gun. There is more smoke here than you would find in a London pub. The Minister for Foreign Affairs has had his attention expressly drawn to each of the elements in the oil for food scandal and yet no action has been taken and we have seen this $300 million debacle progressively unfold.

The government has been getting increasingly worried and casting around for distractions. Today we had the government’s Minister for Health and Ageing, Mr Abbott, casting around for distractions. He asked: ‘Are there any Australians in the Australian Labor Party?’ They are all Australians. Everyone who participates in Labor preselections is an Australian citizen, unlike Liberal Party rules, which have no such requirement and have led to such excesses as the Liberal preselection for the electorate of Ryan being participated in by residents of Hong Kong who had no Australian connection whatsoever.

The government has received warning after warning of what was occurring. We have talked during this debate about the period after the downfall of Saddam Hussein. There were warnings in June 2003 from Michael Long and again from US Wheat Associates, who wrote to US Secretary of State Colin Powell. There were warnings in August 2003, in September 2003 and in October 2003. Then, late last year, the balloon really started to go up. We know that the Prime Minister met Paul Volcker in New York and the issue of the oil for food scandal was discussed.

We also know that the foreign affairs minister had discussions with Mr Volcker. Mr Downer’s meeting led to a flurry of activity, suggesting a realisation on his part that the cat was out of the bag marked ‘AWB kickbacks’. Minister Downer met with AWB senior personnel and told them the report was bad for the company and they needed to meet with Mr Volcker as soon as possible. A week later, the member for Gwydir sold all his AWB shares. Given this history, it is high time ministers started to appear before the Cole inquiry instead of trying to hide behind it. These ministers and former Minister Anderson should go before the Cole inquiry and answer the question which would no doubt be put to them.

Mrs BRONWYN BISHOP (Mackellar) (4.42 pm)—Well may we ask: why are we having this debate at all? The reason, of course, is that the Labor Party needs some form of divertissement. It is presently en-
gaged in ripping itself to shreds. It is presently engaged in a vendetta with its figurehead and its spearhead being that campaign against Simon Crean. Why? Because Simon Crean had the audacity to say he wanted to reform the Australian Labor Party and reduce the amount of union power in picking candidates for preselection who subsequently become members of parliament. That is what this is really about. Read the newspaper headlines: ‘Queue for safe Labor seats grows’ and ‘Six Victorian MPs facing the boot’. Again and again we are seeing disarray in the Labor Party, and what better way to deal with that disarray than to show a concerted front on which they could all agree by trying to give the government a hard time on the Wheat Board.

Let us look at the reality of the situation. The terms of this matter of public importance are:
The failure of the Government to properly account for its role in the continued abuse of United Nations Iraqi aid programs following the downfall of Saddam Hussein.

Firstly, you can thank the coalition of the willing and the Howard government, which joined in that coalition, for the exit of Saddam Hussein. If it had not been for that determination, he would still be there. That would please the Labor Party, who did not support the downfall of that dictatorship. They were wishy-washy and, quite frankly, if their views had been followed he would still be there today. But the proper role of government was fulfilled on 10 November, when the Hon. Terence Cole AO QC was:

... appointed Commissioner to conduct an inquiry into and report on whether decisions, actions, conduct or payments by Australian companies mentioned in the Final Report (‘Manipulation of the Oil-for-Food Programme by the Iraqi Regime’) of the Independent Inquiry Committee into the United Nations Oil-for-Food Programme breached any Federal, State or Territory law.

That was the government’s role and that was the government’s response to the Volcker inquiry—quite proper and fulfilled. In the terms of the MPI being moved today by the honourable member for Griffith, quite simply the government has fulfilled its role of accountability by appointing a commission which has powers conferred by the Royal Commissions Act 1902.

I go back to the point of why we are seeing fulmination by the Labor Party on every occasion. I think we must be up to 90 questions asked by the Labor Party on this issue to date—90 questions that have not laid a glove on anyone. No connect has been made to the government. Not prepared to let the Cole inquiry do its work and bring out its report, the Labor Party simply want to have, as I said, a smokescreen and divertissemen which takes people’s attention away from what is really going on in the Labor Party—which is a mammoth bloodletting; a vicious vendetta against Simon Crean in particular for his actions in reducing the power of the trade unions and a vendetta against everyone who voted for the disastrous Latham experiment.

I can understand why the Labor Party are angry about the fact that they were stupid enough to pick Latham. I think, if you look at the way they self-destructed during the campaign under a man who clearly could not handle it, all those people who were there to—

Ms Roxon—Mr Speaker, on a point of order: the member has been speaking for more than five minutes now and has not once mentioned any word that is the topic of the matter of public importance before the House. I do ask that the member be brought to the topic. I know that it is not interpreted terribly strictly at this time, but the member should at least vaguely be able to discuss the topic that is before us. It is after all a very
important matter of public interest. I would have thought that the member for Mackellar might be able to say something of significance on the topic.

The DEPUTY SPEAKER (Mr Wilkie)—I believe there has been wide-ranging discussion and there has been some reference to the terms of reference of the MPI.

Mrs BRONWYN BISHOP—It is a pity that the member opposite who raised the point of order is deaf as well as being involved in the vendetta against Simon Crean. I go further to look at the Volcker report. To put it in true perspective, when we look at the inquiry Volcker embarked upon, he was looking at 2,220 companies—food companies, a bank, the UN secretariat and UN contractors. There were 2,220 companies involved in that investigation, involving 66 member states. If you listened to the subterfuge from the Labor opposition, you would have thought that the Volcker inquiry was exclusively about Australia and Australian Wheat Board Ltd—AWBL. You would not have thought that there was another thing being investigated.

As I said when the honourable member across the way was not listening, the MPI says that the government has not fulfilled its role. I said it had fulfilled its role totally when it appointed the Cole commission to look into Australia’s role and whether or not there had been any breach of federal, state or territory law. I said on a number of occasions that it was about time that the opposition awaited the outcome of that inquiry and then perhaps we can debate what occurs after that. Of course, if we waited for that, the major story that would be running on the front page of the newspapers would be the bloodletting of the Labor Party. Anybody in politics knows that disunity is death. That is precisely what the Labor Party wishes to cover up. The issues are being dealt with quite properly by the government in fulfilling its role, the same role that in the matter of public importance the opposition says we have not fulfilled. Quite clearly, anyone who questioned the government’s response to the Volcker inquiry has properly been answered by the Cole inquiry.

We can look further at the sorts of things that the government is doing in addition to assist in Iraq to ensure that the actions of the coalition of the willing result in a successful outcome for Iraq. In that context, we have committed $173 million in aid—$55.5 million for immediate humanitarian needs; $47 million through multilateral agencies to support elections, agriculture, governance and refugees; $37 million spent on reconstruction assistance, mainly in agriculture and governance; and a further $33 million allocated for construction assistance from 2005 to 2007. In addition to that, we have involved ourselves in UNICEF projects with another $14.5 million for water and sanitation—the provision of two million litres of clean water daily. AusAid funds to UNICEF for water tanks in Basra are benefiting over 200,000 people through the provision of daily supplies of water and rehabilitation of water and sewerage facilities in 10 governorates. AusAid funding supported the rehabilitation of seven Nissan water treatment plant power stations. In the area of health, 4.2 million children under five-years-old and 700,000 pregnant women have been the beneficiaries of a vaccination program. There has been training for 140 physicians and 203 health workers on preventative health services, immunisation and health management. There has been training of 450 health workers specialising in child sickness.

In other words, not only does the government totally refute the proposition set out in the MPI by saying that we have properly fulfilled our role by appointing the Cole
commission under the Royal Commission Act 1902 to inquire into these matters but also we are simply one country out of 66 with all the focus on one company when there are 2,220 involved. What we are really seeing is the Labor Party getting rid of all those people who supported the disastrous Latham experiment and masking the bloodbath by attacking sitting members in payback for decreasing the amount of union control of the Labor Party. That is what should really be debated today, not the question of whether or not Australia has acted properly with regard to the Volcker report, which the government have clearly done. (Time expired)

Mr WINDSOR (New England) (4.52 pm)—I was intrigued with the history lesson in terms of the Labor Party and what is currently going on. I think the wheat growers are very concerned about what is going on in relation to the daily exposé of the Wheat Board. I think there are only two or three wheat growers actually in the House of Representatives, of which I am one. It would be pertinent for those entering the debate to have a very close look at the history of the Australian Wheat Board and the history of the farming movement as to how and why the Wheat Board came about.

Undoubtedly, this particular issue of the corrupt activities of members of the Australian Wheat Board is going to damage our credibility in any international forum in relation to trade negotiations. I think most people would be aware that Australia has been at the forefront of trying to achieve free trade and a more balanced nature of our trade. Whether the government or the ministers that have been named in this issue have been involved or not or can be proven to be involved or not is almost irrelevant compared with the damage that is being done internationally. In the future Australia and our current Minister for Trade, Mr Vaile, will have to go into those forums and argue for free trade when this sort of activity has been going on. There have been, rightly or wrongly, a number of missives that have been sent, messages that were not properly picked up or maybe ignored—I do not know the answers to that and I do not think Commissioner Cole will actually find the answers to those things either—but the fact is there has been enormous damage done.

There have been a number of meetings across Australia with political players, some wheat growers and some organisations where the issue of the Wheat Board has been discussed. But wheat growers are very concerned. They want the truth to come out and they feel it has to come out before we can regain any credibility internationally. Wheat growers are very concerned about the future of the single desk arrangements. Wheat growers do not want the baby thrown out with the bathwater on this issue. There may be some finetuning that needs to be done to the Wheat Export Authority or a body such as that where there can be greater scrutiny of and transparency in the Wheat Board’s activities. I think that is an issue that has to be decided. Many members of the government have been saying that we do not want to mix those two issues, and I agree with Mr Vaile’s statement, but many members of the government are actually mixing the issues to a political end. Some people believe that this issue of corrupt activity by members of the Wheat Board in dealing with Iraq may well open up an opportunity to free up the single desk arrangements into the future. As I said, the wheat growers that I have spoken to do not want that to happen. They do not want the two debates to run at once.

I call upon those members of the government in particular, but all members of parliament in general, who are suggesting—and the Treasurer is one of them—that there should be alternative ways of marketing grain and that there should be a freeing up of
the way in which export grain enters the marketplace on the back of the Iraqi activities to support the single desk arrangements, to allow the Cole inquiry to take its course and, on the determinations that are made by the Cole inquiry, to keep in place the single desk. That may well, as I said, require some degree of tinkering with the Wheat Export Authority or a similar body into the future. But there is enormous damage being done. I think we all recognise that.

One thing the government has not done is to recognise that there are other ways of using this grain. We tend to have a mindset that Australia is an exporter of grains. We export something like 75 to 80 per cent of our capacity; therefore, we think we are dependent on the world market. That has been one of the issues in running the free trade agenda. But there are alternatives, and I do not think this parliament, and particularly the government, pay enough attention to those alternatives. The government should be serious about looking at those alternatives, particularly given the fact that the grain market is corrupt. Every day we have someone from the government or the Wheat Board saying that that is the way the world is. I do not actually believe that, but let us assume for the moment that they know more than I do—that is the way the world is; it is a corrupt marketplace. So we have an absurd situation where we grow our grain, we export it on a corrupt market and then we use some of that money to enter another corrupt market, that of the oil business. There are the fuel companies themselves and there are the various countries in the Middle East that have the oil, and we go out into the world market, trade our grain in a sense and bring back oil. As time goes on, that will happen more and more.

The government is not looking at ways and means of cutting that corner. I know I have raised this issue before, but I will raise it again because I think it is particularly pertinent. If Australia adopted a mandatory 10 per cent ethanol in our petrol, that one stroke of policy would remove half the export grain from the marketplace—eight million tonnes. We export about 16 million tonnes a year. Ten per cent ethanol in our fuel is something that many other nations are doing. Even the President of the United States, George Bush, has recently announced that they will move towards much more sustainable energy and that they are going to get off their addiction to oil. They can see what is happening and potentially happening internationally. If we adopted a policy of 10 per cent ethanol in our fuel, that would potentially remove eight million tonnes of grain from that corrupt market. Twenty per cent of the total wheat production for export would be removed, and it would remove the necessity to enter these two corrupt markets. Those markets will get worse as time goes on.

The government has not looked at those options. The government tends to be locked into the mindset that we have to export and that, if we export, we have to take it for granted that those markets will be corrupt and that we need to get rid of the grain—we need the money, our farmers need the money—and, therefore, that is the way the world operates. It is not the way the world operates in the United States, the bastion of free trade, and it is not the way the world operates in Brazil. Brazil, for instance, is expanding its ethanol industries at the rate of one Australian sugar industry per annum. The United States is building ethanol plants at a rate of a little under one a month.

As the Minister for Community Services at the table would realise, we are looking at grain prices of about 25 years ago. The grain prices to the farmers in Australia are very low at this time. Irrespective of whether or not the government is involved, the damage has been done to our trading reputation. It is
time that we looked at alternatives if we are really concerned about the wheat growers that everybody is crying about. It is time that we looked at real alternatives to the uses of grain products, rather than having this constant harping. I was one of those in the eighties—because I was involved with the Grains Council of Australia and the New South Wales Farmers Association—who was arguing for a level playing field internationally. That is fantasy land. It is fantasy land in United States, it is fantasy land in Europe and it is fantasy land in the South Americas, and it should be considered as fantasy land here. We have to start to look at alternatives to the exportable surpluses we produce. There is an enormous opportunity in the grains and sugar industries through sustainable energy and renewable fuel in biodiesels and ethanol. I would suggest that, if both sides of this parliament are, as they say, really concerned about wheat growers in Australia, they start looking at those alternatives. *(Time expired)*

The **DEPUTY SPEAKER** (Mr Wilkie)—Order! The discussion is now concluded.

**COMMITTEES**

**Membership**

The **DEPUTY SPEAKER** (Mr Wilkie)—I have received advice from the Government Whip nominating members to be members of certain committees.

**Mr JOHN COBB** (Parkes—Minister for Community Services) *(5.02 pm)*—by leave—I move:

That:

(1) Mr Robb be discharged from the Standing Committee on Aboriginal and Torres Strait Islander Affairs and that, in his place, Mr Laming be appointed a member of the committee;

(2) Mr Baldwin be discharged from the Standing Committee on Publications and that, in his place, Mr Johnson be appointed a member of the committee;

(3) Mr Baldwin be discharged from the Joint Committee on the Broadcasting of Parliamentary Proceedings and that, in his place, Mr Cadman be appointed a member of the committee; and

(4) Mr Broadbent, Mr Georgiou, Mr Wake- lin and Mr Anderson be appointed to the Joint Committee on the Parliamentary Library.

Question agreed to.

**BUSINESS**

**Discharge of Orders of the Day**

**Mr JOHN COBB** (Parkes—Minister for Community Services) *(5.03 pm)*—by leave—I move:

That the following government business orders of the day, including certain tariff proposals comprising part of order of the day No. 105, be discharged:

62 **NATIONAL HEALTH AND MEDICAL RESEARCH COUNCIL—REPORT FOR 2004**—**MOTION TO TAKE NOTE OF DOCUMENT**: Resumption of debate *(from 21 June 2005—Ms Gillard)* on the motion of Mr Abbott—that the House take note of the document.

63 **QUARTERLY REPORT ON MOVEMENT CAP FOR SYDNEY AIRPORT—1 OCTOBER 2004 TO 31 DECEMBER 2004**—**DOCUMENT—MOTION TO TAKE NOTE OF DOCUMENT**: Resumption of debate *(from 16 June 2005—Ms Gillard)* on the motion of Mr McGauran—that the House take note of the document.

64 **ASBESTOS-RELATED CLAIMS (MANAGEMENT OF COMMONWEALTH LIABILITIES) BILL 2005**—**CORRECTION TO EXPLANATORY MEMORANDUM—MOTION TO TAKE NOTE OF DOCUMENT**: Resumption of debate *(from 16 June 2005—Ms Gillard)* on the motion of Mr McGauran—that the House take note of the document.
65 GENE TECHNOLOGY REGULATOR—QUARTERLY REPORT FOR THE PERIOD 1 OCTOBER TO 31 DECEMBER 2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 14 June 2005—Ms Gillard) on the motion of Mr Abbott—That the House take note of the document.

66 WORKPLACE RELATIONS—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 11 May 2005—Mr Andrews) on the motion of Mr Abbott—That the House take note of the document.

67 AUSTRALIAN RADIATION PROTECTION AND NUCLEAR SAFETY AGENCY—QUARTERLY REPORT OF THE CHIEF EXECUTIVE OFFICER FOR THE PERIOD 1 OCTOBER TO 31 DECEMBER 2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 11 May 2005—Ms Gillard) on the motion of Mr McGauran—That the House take note of the document.

68 REVIEW OF THE NATIONAL COMPETITION POLICY REFORMS—INQUIRY REPORT—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 10 May 2005—Ms Gillard) on the motion of Mr Abbott—That the House take note of the document.

69 FOREIGN INVESTMENT REVIEW BOARD—REPORT FOR 2003-2004—CORRIGENDUM—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 10 May 2005—Ms Gillard) on the motion of Mr Abbott—That the House take note of the document.

70 TOBACCO ADVERTISING PROHIBITION ACT 1992—REPORT FOR THE PERIOD 1 JANUARY TO 31 DECEMBER 2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 16 March 2005—Ms Gillard) on the motion of Mr McGauran—That the House take note of the document.


74 SINGAPORE-AUSTRALIA FREE TRADE AGREEMENT AMENDMENTS—TREATY—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 15 March 2005—Ms Gillard) on the motion of Mr McGauran—That the House take note of the document.

75 AUSTRALIA'S AID: AN INTEGRATED APPROACH—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 10 March 2005—Mr Downer) on the motion of Mr Downer—That the House take note of the document.


77 INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS—VIEWS—COMMUNICATION NO. 1011/2001—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate
(from 9 March 2005—Ms Gillard) on the motion of Mr Abbott—that the House take note of the document.

78 CORRIGENDA TO INDUSTRY RESEARCH AND DEVELOPMENT BOARD REPORT FOR 2003-2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 8 March 2005—Ms Gillard) on the motion of Mr Abbott—that the House take note of the document.

79 POOLED DEVELOPMENT FUNDS REGISTRATION BOARD—REPORT FOR 2003-2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 8 March 2005—Ms Gillard) on the motion of Mr Abbott—that the House take note of the document.

80 AIR PASSENGER TICKET LEVY COLLECTION ACT—REPORT FOR 1 APRIL 2003 TO 31 MARCH 2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 9 February 2005—Ms Gillard) on the motion of Mr Abbott—that the House take note of the document.

81 ROADS TO RECOVERY PROGRAM—REPORT FOR 2003-2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 9 February 2005—Ms Gillard) on the motion of Mr Abbott—that the House take note of the document.

82 STANDING COMMITTEE ON TRANSPORT AND REGIONAL SERVICES—REPORT: MOVING ON INTELLIGENT TRANSPORT SYSTEMS—GOVERNMENT RESPONSE—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 9 February 2005—Ms Gillard) on the motion of Mr Abbott—that the House take note of the document.

83 CIVIL AVIATION SAFETY AUTHORITY—REPORT FOR 2003-2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 8 February 2005—Ms Gillard) on the motion of Mr Pearce—that the House take note of the document.

84 FOREIGN INVESTMENT REVIEW BOARD—REPORT FOR 2003-2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 8 February 2005—Ms Gillard) on the motion of Mr Pearce—that the House take note of the document.

85 INDUSTRY RESEARCH AND DEVELOPMENT BOARD—REPORT FOR 2003-2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 8 February 2005—Ms Gillard) on the motion of Mr Pearce—that the House take note of the document.

86 NATIONAL OCCUPATIONAL HEALTH AND SAFETY COMMISSION—REPORT FOR 2003-2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 8 February 2005—Ms Gillard) on the motion of Mr Pearce—that the House take note of the document.

87 REPORT OF THE ROYAL COMMISSION INTO THE CENTENARY HOUSE LEASE—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 9 December 2004—Mr Pyne) on the motion of Mr Abbott—that the House take note of the document.

88 AUSTRALIAN RAIL TRACK CORPORATION—REPORT FOR 2003-2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 9 December 2004—Ms Gillard) on the motion of Mr Abbott—that the House take note of the document.

89 AUSTRALIAN RAIL TRACK CORPORATION—STATEMENT OF CORPORATE INTENT 2004-2005—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 9 December 2004—Ms Gillard) on the motion of Mr Abbott—that the House take note of the document.

90 AUSTRALIA-JAPAN FOUNDATION—REPORT FOR 2003-2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 8 December 2004—Ms Gillard) on the motion of

CHAMBER
Mr McGauran—That the House take note of the document.


93 QUARTERLY REPORT ON MOVEMENT CAP FOR SYDNEY AIRPORT—1 JULY 2004 TO 30 SEPTEMBER 2004—DOCUMENT—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 7 December 2004—Ms Gillard) on the motion of Mr Abbott—That the House take note of the document.

94 NATIONAL TRANSPORT COMMISSION—REPORT FOR 2003-2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 7 December 2004—Ms Gillard) on the motion of Mr Abbott—That the House take note of the document.


96 ALCOHOL EDUCATION AND REHABILITATION FOUNDATION LTD—REPORT FOR 2003-2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 1 December 2004—Ms Gillard) on the motion of Mr Abbott—That the House take note of the paper.

97 AUSLINK WHITE PAPER—DOCUMENT—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 17 November 2004) on the motion of Mr Abbott—That the House take note of the document.

98 QUARTERLY REPORT ON MOVEMENT CAP FOR SYDNEY AIRPORT—1 APRIL 2004 TO 30 JUNE 2004—DOCUMENT—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 17 November 2004) on the motion of Mr Abbott—That the House take note of the document.


102 AUSTRALIAN MARITIME SAFETY AUTHORITY—REPORT FOR 2003-2004—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 17 November 2004) on the motion of Mr Abbott—That the House take note of the document.

103 WORKPLACE RELATIONS AMENDMENT (FAIR DISMISSAL REFORM) BILL 2004 (Minister for Employment and Workplace Relations): Second reading—Resumption of debate (from 14 February 2005—Ms Bird, in continuation) on the motion of Mr Andrews—That the Bill be now read a second time—And on the amendment
moved thereto by Mr S. F. Smith, viz.—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:

(1) confirms that the protection from being unfairly dismissed is a fundamental issue for Australian workers and their families irrespective of the size of the business in which they are employed; and

(2) calls on the Government to work with small business, employees and peak bodies to make unfair dismissal laws more effective by addressing procedural complexities and costs”.


105 TARIFF PROPOSALS (Mr Hunt):


Customs Tariff Proposal No. 2 (2005)—moved 10 May 2005—Resumption of debate (Mr Sercombe).

Customs Tariff Proposal No. 3 (2005)—moved 23 June 2005—Resumption of debate (Mr Edwards).

Question agreed to.

Main Committee

Mr JOHN COBB (Parkes—Minister for Community Services) (5.04 pm)—by leave—I move:

That Main Committee orders of the day Nos 5 to 11, government business, be returned to the House.

The list read as follows—

5 STANDING COMMITTEE ON TRANSPORT AND REGIONAL SERVICES—REPORT—NATIONAL ROAD SAFETY—EYES ON THE ROAD AHEAD—GOVERNMENT RESPONSE—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 8 February 2006—Mr Georgiou) on the motion of Mr Abbott—That the House take note of the document.

6 STANDING COMMITTEE ON TRANSPORT AND REGIONAL SERVICES—REPORT—TRAIN ILLUMINATION: INQUIRY INTO SOME MEASURES PROPOSED TO IMPROVE TRAIN VISIBILITY AND REDUCE LEVEL CROSSING ACCIDENTS—GOVERNMENT RESPONSE—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 7 December 2005—Ms Gillard) on the motion of Mr Abbott—That the House take note of the document.

7 PARLIAMENTARY JOINT COMMITTEE ON NATIVE TITLE AND THE ABORIGINAL AND TORRES STRAIT ISLANDER LAND FUND—SECOND INTERIM REPORT FOR THE SECTION 206(d) INQUIRY: INDIGENOUS LAND USE AGREEMENTS—GOVERNMENT RESPONSE—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 7 December 2005—Mr Barresi) on the motion of Mr Abbott—That the House take note of the document.

8 60TH ANNIVERSARY OF VP DAY: Resumption of debate (from 12 October 2005) on the motion of Mr Howard—that this House:

(1) notes that 15 August 2005 (VP Day) marks 60 years since the Japanese surrender which ended World War II;

(2) recalls with profound gratitude the heroic achievements and sacrifices of those Australians who served in the defence forces during the war, as well as those who contributed on the civilian front;

(3) particularly remembers the thousands of Australians who lost their lives or were
wounded in the conflict, and especially recalls the suffering of so many Australians taken as prisoners of war;
(4) whilst never forgetting those who suffered during World War II, acknowledges the strength and importance of the post World War II relationship between Australia and Japan; and
(5) resolves that Australia’s efforts should always be directed to ensuring that a conflict of that magnitude never occurs again.

9 60TH ANNIVERSARY OF VE DAY—COPY OF THE MOTION OF THANKS MOVED BY THE PRIME MINISTER—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 12 May 2005—Ms J. Bishop) on the motion of Mr Abbott—that the House take note of the document.

10 IRAQ: AUSTRALIAN TASK GROUP DEPLOYMENT—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 17 March 2005—Mr Ticehurst) on the motion of Mr Abbott—that the House take note of the document.

11 INDIAN OCEAN TSUNAMI—COPY OF MOTION BY THE PRIME MINISTER—MOTION TO TAKE NOTE OF DOCUMENT: Resumption of debate (from 10 March 2005—Mr Baldwin) on the motion of Mr Pearce—that the House take note of the document.

Question agreed to.

Discharge of Orders of the Day

Mr JOHN COBB (Parkes—Minister for Community Services) (5.05 pm)—by leave—I move:
That those orders of the day returned to the House in accordance with the resolution agreed to earlier be discharged.

Details will be recorded in the Votes and Proceedings.

Question agreed to.

ENERGY EFFICIENCY OPPORTUNITIES BILL 2005

Consideration of Senate Message

Bill returned from the Senate with amendments.

Ordered that the amendments be considered at the next sitting.

CENSUS INFORMATION LEGISLATION AMENDMENT BILL 2005

TRADE PRACTICES AMENDMENT (PERSONAL INJURIES AND DEATH) BILL 2004

Returned from the Senate

Message received from the Senate returning the bills without amendment or request.

COMMITTEES

Australian Crime Commission Committee Membership

The DEPUTY SPEAKER (Mr Wilkie)—I have received a message from the Senate informing the House that Senator the Hon. Ian Macdonald has been appointed to the Parliamentary Joint Committee on the Australian Crime Commission.

Selection Committee Report

Mr CAUSLEY (Page) (5.06 pm)—I present the report of the Selection Committee relating to the consideration of committee and delegation reports and private members’ business on Monday, 27 March 2006. The report will be printed in today’s Hansard and the items accorded priority for debate will be published in the Notice Paper for the next sitting.

The report read as follows—

Report relating to the consideration of private Members’ business on Monday, 27 March 2006

Pursuant to standing order 222, the Selection Committee has determined the order of precedence and times to be allotted for private Mem-
bers’ business on Monday, 27 March 2006. The order of precedence and the allotments of time determined by the Committee are as follows:

PRIVATE MEMBERS’ BUSINESS

Order of precedence

Notices

1 Mr Georganas to present a bill for an act to establish an Airport Development and Aviation Noise Ombudsman, and for related purposes. (Airport Development and Aviation Noise Ombudsman Bill 2006) (Notice given 14 February 2006.)

Presenter may speak for a period not exceeding 5 minutes —pursuant to standing order 41.

2 Mr McMullan to present a bill for an act to amend the Copyright Act 1968, to provide for resale royalties for visual artists. (Artist’s Resale Rights Bill 2006) (Notice given 27 February 2006.)

Presenter may speak for a period not exceeding 5 minutes —pursuant to standing order 41.

3 Mrs B. K. Bishop to present a bill for an act to amend the Criminal Code Act 1995; to prevent the destruction or desecration of the Australian National Flag. (Protection of the Australian National Flag (Desecration of the Flag) Bill 2006) (Notice given 27 February 2006.)

Presenter may speak for a period not exceeding 5 minutes —pursuant to standing order 41.

4 Mrs Hull to move:

That this House:

(1) note that:

(a) ageing parents and carers of disabled children face a crisis of lack of accommodation options for disabled children;

(b) any ageing parents and carers of disabled children are in need of aged care accommodation for themselves;

(c) due to limited available accommodation options for disabled people, many aged carers of disabled people are significantly disadvantaged;

(d) there is an urgent need to assist ageing parents and carers of disabled children to access quality accommodation and care for disabled people;

(e) in October 2005 the Prime Minister announced a $200 million package to assist parents to establish private trusts for the future care of their disabled children; and

(f) there is an expert advisory group established to advise on the implementation of the package; and

(2) call on:

(a) the Minister to instruct the advisory group to consult widely on the merits of establishing a new financial and insurance product that would assist all parents of disabled children to plan for their future care; and

(b) both the State and Federal Governments to work together to urgently resolve this accommodation and care crisis. (Notice given 16 February 2006.)

Time allotted —30 minutes.

Speech time limits —

Mover of motion —5 minutes.

First Opposition Member speaking —5 minutes.

Other Members —5 minutes each.

[Minimum number of proposed Members speaking = 6 x 5 mins]

The Committee determined that consideration of this matter should continue on a future day.

5 Mr Adams to move:

That this House:

(1) congratulate the farmers of Tasmania on their bid to bring the plight of all farmers to the attention of the community and the Premier of Tasmania for supporting them;

(2) condemn the Federal Government for:

(a) the lack of labelling laws to allow the community to make their own decisions on the purchase of fresh food;

(b) the fact that farmers in Tasmania and the rest of Australia are suffering from the unlevel playing field that exists in the import and export of fresh foods;
(c) the fact the Federal Government is not achieving enough gains for farmers in their negotiations on free trade agreements with many countries, including the US and China; and

(d) the lack of leverage for farmers trying to negotiate fair and just contracting rates for their produce; and

(3) call on the Minister for Agriculture, Forestry and Fisheries to introduce legislation to ensure that labelling of farm products is unambiguous and works for the benefit of all Australian primary producers. (Notice given 14 February 2006.)

Time allotted — remaining private Members’ business time prior to 1.45 p.m.

Speech time limits —
Mover of motion — 5 minutes.
First Government Member speaking — 5 minutes.
Other Members — 5 minutes each.

[Minimum number of proposed Members speaking = 6 x 5 mins]

The Committee determined that consideration of this matter should continue on a future day.

6 Mr Fawcett to move:
That this House:

(1) express its deep sorrow and its condolences to the Government of the Republic of Indonesia and to the families who have been directly affected by the killings of the three Indonesian girls that occurred last Saturday, 29 October 2005, in Poso, Central Sulawesi, Indonesia;

(2) strongly condemns the beheadings of the three Christian girls, students in Poso, which it considers as an act of brutality, terror, and a serious abuse of human rights, in that the fundamental human rights are the rights to life and religious freedom, which are guaranteed under the Indonesian Constitution;

(3) welcomes steps by the Government of Indonesia to investigate the incident and its efforts to stop the climate of violence and to bring those responsible for this act of terror to justice; and

(4) conveys to the Government and people of Indonesia that the Australian Government remains committed to peace and reconciliation in Indonesia, and to enhancing mutual understanding and cooperation among peoples of Indonesia and Australia. (Notice given 7 November 2005.)

Time allotted — 30 minutes.
Speech time limits —
Mover of motion — 5 minutes.
First Opposition Member speaking — 5 minutes.

[Minimum number of proposed Members speaking = 6 x 5 mins]

The Committee determined that consideration of this matter should continue on a future day.

7 Mr Katter to move:
That this House resolves to accept the principle that the primary qualifying criteria for the Australian Defence Medal specify two years effective service, instead of six years, in line with the recommendation of the Returned and Services League of Australia. (Notice given 7 November 2005.)

Time allotted — remaining private Members’ business time.

Speech time limits —
Mover of motion — 5 minutes.
First Government Member speaking — 5 minutes.

[Minimum number of proposed Members speaking = 6 x 5 mins]

The Committee determined that consideration of this matter should continue on a future day.

FAMILY LAW AMENDMENT (SHARED PARENTAL RESPONSIBILITY) BILL 2005

Second Reading

Debate resumed from 27 February, on motion by Mr Ruddock:

That this bill be now read a second time.

Ms ROXON (Gellibrand) (5.07 pm)—Labor welcomes the introduction of the Family Law Amendment (Shared Parental Responsibility) Bill 2005 into the parliament
and supports the overwhelming majority of the provisions in it. The gestation period of the bill has been over three years and much of the groundwork was laid by bipartisan committee work in this House. Family law is not and should not be about a political battle between the Liberal and Labor parties or a tug of war between mums and dads. Family law is about providing for and protecting children. It is children’s interests that we are tasked to take care of when we are debating this bill. We must not forget that the children are the very reason—really the sole reason—that the parliament is involved at all in intervening in this tricky area of family relationships.

The public interest, the debate and the long lead time for these particular family law changes are also indicative of the complex and difficult area that family law is and the determination that I think all of us in this House share in trying to make these laws as good as we can.

Of course society has changed over 30 years and we need to make sure that our laws reflect this. We also need to remember in this area of law, more so than in many others, that the law cannot fix the pain and disappointment that many people inevitably feel when their relationships break down. We cannot turn family law into a proxy debate about a wide range of other social problems. It is just unrealistic and destined to disappoint if we pretend that family law, no matter how we change it, will make people forget the hurt they feel when their families break up.

It is easy to see how the media and certain lobby groups are attracted to the sensational ‘battle of the sexes’ rhetoric. But it is a trap that politicians should avoid, because family law is about something much more important than parents’ rights: it is about children. Given this, we should be more concerned about parents’ responsibilities than parents’ rights, because that is what will benefit children at the end of the day.

In this speech I am going to take the time to carefully set out Labor’s position on family law. I intend to go through the many parts of the bill we support, to highlight and make suggestions for those that we think can be improved and to express our reservations about how some aspects may work when implemented. We support the measures that encourage shared parenting. It is a positive development that more and more parents, mums and dads, realise the value of staying in active contact with their children after separation. In particular, the last decade has seen a great change in the numbers of fathers wanting to play a significant role in the care of their children, and it is appropriate that the law recognises that patterns of parenting are changing. At the same time, mums are still providing the majority of care for children in the community. I guess the point of raising both of these facts is that it is important that we realise that all families are different. This means that we have to be very careful about prescribing one-size-fits-all solutions in family law.

We also support the measures in this bill that are trying to simplify court processes involving children and to make them less adversarial, and the measures to solve as many matters as possible outside the courts. This picks up the process that is being trialled in the Sydney and Parramatta registries with respect to the court processes. The Family Court is undertaking that pilot project as we speak. We note that the final assessment of that trial has not yet been completed and we do hope that the government will commit to reviewing these changes, if necessary, in the light of that report when it is provided.

Labor supports changes that will promote family dispute resolution outside the court-
room. This has the potential to save a lot of time, money and frustration. This bill is part of a package that includes a significant new government contribution to the funding of family relationship services. It includes $200 million towards increased funding of services under the existing family relationship services program. Labor enthusiastically welcomed this new money when it was announced. Indeed, we had been arguing for a number of years that these services had been sorely neglected by the Howard government.

We also welcome the plan to establish a network of 65 family relationship centres. Well managed and properly resourced, this network could provide an invaluable addition to the family law system—a shopfront and entry point for advice, referral, counselling and mediation services. But being well managed and resourced is the key, and we will be closely watching these services to make sure they are well managed and resourced—but more of this later.

So it is clear that many of the good ideas in this bill are well supported by Labor. And this is no surprise, because many of them came out of the bipartisan work of the House of Representatives Standing Committee on Family and Community Affairs several years ago, which produced the important *Every picture tells a story* report. Labor is proud of the contribution that our colleagues made to that report. Further, a number of aspects of this bill we are debating today come from a later review conducted by the House of Representatives Standing Committee on Legal and Constitutional Affairs, which scrutinised an earlier exposure draft of this bill. I will come later to a number of recommendations made by that committee.

At this point, though, I want to note that this bill now includes two important provisions that stem from my dissenting report in that LACA review, which will temper the rights focus of the earlier draft of the bill, with two new important responsibilities for parents. Section 60CC, which outlines the best interests of the child test, will now require the court to consider the extent to which each parent has taken up opportunities to spend time with and communicate with the child, be involved in major life decisions that affect the child and paid maintenance for that child. Section 70NCA will allow costs to be awarded against parents who make repeated nuisance claims that the other parent has breached parenting orders. Yes, they certainly must have the right to complain, but now they also have a responsibility not to abuse that right. These are tremendously important new provisions which I believe should help make sure the balance of the Family Law Act when these changes have gone through is right.

My concern, which I have raised in many other places, including in my dissenting report, is that if we focus too much on rights we risk turning a blind eye to irresponsibility. The law cannot promote rights without responsibilities. When you do so, you run the risk that people will abuse those rights. While the vast majority of non-resident parents—as well as the majority of resident parents—take their responsibilities seriously, we believe the exposure draft would have rewarded those who do not. In the process it would have created huge problems in those situations where a non-resident parent is more concerned with controlling their ex-partner’s lives than actually maintaining a meaningful involvement in their children’s lives. So these changes are important and welcome.

Having set out the areas in which there is agreement between the government and the Labor Party—and they do cover the main aspects of this bill—I will turn now to some of the concerns that Labor does have with this bill. Labor’s most significant concern is
to make sure that this package protects people from family violence. We believe there are parts of this bill that could be better worded to afford greater protection, and we will be moving amendments accordingly. Labor believes that the issue of family violence has to be taken seriously; it cannot be brushed aside just because it is a difficult issue.

The first area for improvement of the bill involves recognizing the way violence affects mediation and parenting plans. While resolution of disputes outside the courts is to be encouraged, we must be sure that these resolutions are genuinely made in the best interests of children, which means they must also be absolutely free of bullying, coercion and intimidation. If we are to make mediation compulsory and give new force to parenting plans agreed to without any professional or legal advice, we need new precautions to make sure that violence and fear are not influencing the agreements that are reached. Some of our amendments go directly to these issues. For example, we propose a cooling-off period for parenting plans and a clear rule that these plans are not valid if obtained under coercion or duress. On this latter point, I understand we have been advised today that the government will accept our amendment in respect of coercion and duress—and that is obviously welcome news.

There is a specific change proposed in the bill by the government which we believe could make matters significantly worse in the area of violence, and that is the planned change to the definition of ‘family violence’. It was only on Sunday that the government announced that the Australian Institute of Family Studies is going to undertake a research project into family violence and family law. But before the government even gets the results from this inquiry it wants to change the definition of violence, with next to no reasoning or basis for doing so. Certainly, this research is welcome and it will be important for us to get some good quality longitudinal research in this area. But it seems silly for the government to make the decision to move us from a subjective test to an objective test without any real basis for doing so. This, in fact, is a position that the Attorney originally had in his draft bill—a position on which he and I seemed to agree, but on which the members of the House of Representatives Standing Committee on Legal and Constitutional Affairs did not agree.

I must say that I do not think a rushed inquiry, in which a proposal was put forward to look for a better definition, should form the basis for making such a major change, the consequences of which have not been followed through. I am concerned that the proposal that requires a person to show that they had a ‘reasonable’ apprehension of violence is an unsatisfactory approach. Firstly, there is an implication that some forms of violence or threatening behaviour are acceptable as long as a ‘reasonable’ person would not feel afraid. This gets the courts into the very tricky business of deciding what conduct would scare a ‘reasonable’ person. I do not believe we should put the courts in this position, and parliament should be very clear that there is no such thing as acceptable violence. Secondly, the definition does not provide scope to consider the particular circumstances of the victim—for example, a person who has previously been exposed to violence may be more sensitive and fearful in circumstances where another person might not. Thirdly, an objective definition is not at all helpful when we are dealing with the question of who should or should not attend mediation. When it comes to mediation, frankly, it does not really matter whether or not one person’s fear is reasonable. Even an unreasonable fear will affect the power balance between the parties. It is simply not fair for
us to force people into mediation if they are absolutely terrified. That cannot be a legitimate participation in mediation. At the very least, Labor has a strong view that a subjective definition must apply for the purposes of the exception to compulsory mediation. As I have said, I think the Attorney and I agree on this issue. Our colleagues on the House of Representatives Standing Committee on Legal and Constitutional Affairs, on both sides of the House, did not agree, and they made a suggestion after the short inquiry. But I am fearful that the consequences of that proposal were not carefully considered.

There is, of course, another option between the objective and subjective definitions of violence. The style of definition that applies in the state laws on restraining orders actually defines the conduct which the law deems to be violent regardless of the effect it has on the victim. This may be a better approach, although I can see that it would also have some technical difficulties. It is my hope, given that a Senate committee has now been set up to look at this bill, that the committee will take some time to consider whether the Commonwealth should go down that road. If we are not sure, we should not change a longstanding definition of violence without understanding the consequences. The government has now announced a thorough review in this area by an independent research body. If we are not sure of the consequences of a change as significant as this, we should wait until we have the results of that inquiry.

Labor is also concerned about the provisions to impose costs orders for false allegations of violence. Labor understands that it must be devastating to be falsely accused of violence against your children or partner. However, it also needs to be acknowledged that the current evidence and research suggest that we have a much bigger problem in Australia with the under-reporting of domestic violence than with false allegations. This is the evidence that the House of Representatives Standing Committee on Legal and Constitutional Affairs heard from the Law Council, the Family Court and others. Given this, the last thing we want to do is create a disincentive for raising genuine concerns. Labor is worried that a costs penalty would send the wrong message to victims of violence, telling them that it is much safer to stay quiet than to risk a costs order against them if they cannot be 100 per cent confident that they can prove that the violence has occurred. Interestingly, this is another area in which the Attorney and I agree. It was the initial position put forward by the Attorney in the exposure draft. Labor stands ready to support the Attorney if and when he chooses to revert to his original position.

As an aside, I want to flag Labor’s concern about the increasing incidence of using costs within the family law jurisdiction each time we make changes to the law. We are concerned that we might, by a back door, be turning family law into a costs jurisdiction. That is, of course, a very serious change and we should tread very carefully.

There are a number of other proposed amendments that we have provided to the government which will be debated in the detailed debate on the third reading, including the definition of ‘exposing children to violence’ being included within the definition of ‘violence’. We intend to move those specific amendments on those issues in the committee stages and I hope that the government will consider adopting a number of those amendments when we do that.

As I already mentioned, the bill is going to introduce a new system of compulsory mediation with some limited exceptions. Labor supports this shift as it could help that category of cases in which separating couples have not been able to reach agreement
on their own but are not so entrenched in their attitudes and disagreements as to require final orders from a court. Indeed, we can recognise that the adversarial nature of court proceedings can, of themselves, sometimes make reaching agreement even more difficult. In these cases, compulsory mediation before litigation could act as a useful circuit-breaker, before disputes escalate. However, compulsory mediation could carry some serious consequences if it is not implemented in the right way.

We want to express some caution about the changes and we would like to make sure that compulsory mediation will require the following conditions. Firstly, mediation has to be accessible if it is going to be effective. We welcome the government’s promise of three hours of free funding in each case. We are not confident it will be sufficient in all cases but we think it is important that the government has made that commitment. We want this to be a commitment that is actually in legislation as a precondition for compulsory mediation. We are concerned that if the government changes its mind in the future—if this becomes another ‘non-core’ promise of the Prime Minister—people will still be obliged to go to mediation but will not have the financial support that the government at this stage is prepared to provide. We cannot and should not put a new requirement in place for people to attend that mediation at their own expense, so adding to the costs of people who are going through family breakdown. We do not think that would make it cheaper. Of course that would make it more expensive. There is a specific amendment that people on both sides of this House can vote for to put that promise into law. We will be urging all members of the House to vote for that.

Secondly, for the implementation to work, staff must be well trained. I think all members of this House agree that cases involving family violence or entrenched conflict are not suitable for mediation and should be dealt with in a formal court setting. In practice, in order for us to get that right, we need to be confident that family relationship centre staff can recognise the signs of violence and entrenched conflict and understand how to make appropriate referrals. If mediators do not do this and try to force mediation in inappropriate circumstances, we may have some disastrous, even tragic, outcomes on our hands. Similarly—and acknowledging the complex emotional context of family separation—FRC staff need to be adequately trained in dealing with violent situations if they arise in the course of mediation.

Thirdly, we want to make sure that the government can assure us as to the quality of the services that will be provided. Training staff is going to be vital, but it will not be enough. The government must also ensure that the quality of mediation services are of a consistently high standard. I am alarmed that the government’s operational framework documents contain key performance indicators which seem to prioritise the quantity of parenting agreements reached, rather than the quality of services provided. We need to make sure that the incentives given to the centres are right. Too much focus on quantity could actually encourage staff to push people into agreements that are not sensible or appropriate, because staff are rewarded on the churn rate. We are talking about dealing with complex family relationships here, not sausage factories, and we should make sure that our assessments of the services are appropriate, so we will be watching the implementation closely. We are in the situation of debating this bill in the House without any accreditation details, without a complaints process being in place and without any information about how the new family relationship centres will actually be overseen by government.
Fourthly, it is important that the centres not pursue an ideological, political or religious agenda. These centres are going to be funded by government to provide services, not to promote their own agendas. We know that there are many views within the community on issues like relationships, divorce, parenting and so on. These are complex social issues, and I think our society benefits from hearing many different points of view. But government funded relationship services should not be used as vehicles for this sort of advocacy or for evangelising or social engineering. The Attorney has to take a personal interest in and responsibility for making sure that this does not happen. The centres must not discriminate. If these centres are to be accessible and available to all people, the government must ensure that they do not discriminate on the grounds of gender, ethnicity, religion, disability or socioeconomic disadvantage. We are trying to get put into law a number of these important guarantees that are in specific proposals that we have. Some of them are included in the second reading amendment that I will move in a moment.

At the end of the day it is important that the government understands that, while it has our support to go down this path, it needs to make sure that the implementation process is going to turn this into a real change that works for Australian families. We have some reasons to worry about how effectively the government will do this. In recent years the Howard government has developed a record of administrative incompetence—another sign that 10 years on the government is passing its use-by date. Only this month we have seen revelations of incompetence in two funding programs similar to the one proposed for the FRCs roll-out. Firstly, there was the scandalous mismanagement of the Job Network, which the government heralded as the model to be used for the family relationship centres. In that case, we have seen overpayments resulting from providers fudging their figures—another side effect of the narrow, quantity based performance indicators which are used by a government too lazy to put in place genuine quality assurance mechanisms. Secondly, we have seen in the media the issue of entities associated with the Hillsong Church overspending government grants on internal ‘administration’ costs, with little going to the Indigenous communities that the money was intended for. In this case, the Attorney’s own department was implicated, having failed to check properly on references.

So in the case of family relationship centres, we do have some reason to be cautious and concerned, so competent implementation—and we urge this—is going to be essential to the effective operation of the legislation that we are debating. For this reason, on the passage of this bill the opposition will closely watch the FRCs roll-out, and we expect the Attorney to be completely transparent about this process. He would be aware that I have made a freedom of information request for a number of documents that have not been provided at this stage. Their provision would help ensure that the process is transparent and not political. We need to make sure that he is held personally responsible if this system does fail. He cannot be allowed to ask us, while we are debating this bill, to trust him on its implementation and then not be held accountable for any problems that occur further down the track. I now move my second reading amendment, which is quite long as it does encompass a range of our concerns and a number of issues that other speakers on our side of this House will want to discuss during this debate:

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:
notes that the first priority of family law should be to promote and secure the best interests of children and that this requires a focus on:

(a) the responsibility of parents to care for, love and provide security to children
(b) the need to prevent children from being victims of, or exposed to, violence, abuse or neglect, and
(c) without compromising the above, the benefit to children of knowing and spending time with their parents;

notes that, despite this Bill, the Howard Government has made shared parenting before and after separation more difficult through its constant attacks on Australian families, such as the recent industrial relations changes and its failure to meet the chronic child care shortage;

notes the risk that the Government is creating false expectations that this Bill will create a right for parents spending equal time with their children, when the Bill does not do this, in many cases this would not be appropriate and it shouldn’t automatically be the starting point for negotiations;

notes that the Government has improved its Bill by adopting Labor’s ideas that:

(a) for parents intent on demanding parental ‘rights’, the Court will consider the extent to which parents have exercised their responsibilities as parents - recognising that parenting is a two-way street;

(b) strengthened compliance measures should be coupled with costs for nuisance complainants, so that the right to seek a remedy cannot be used irresponsibly;

notes the effectiveness of these reforms will fundamentally depend on the implementation of the Family Relationship Centres program, so that these centres can provide appropriate advice, counselling and referral as well as dispute resolution services and

calls on the Government to commit to:

(a) providing adequate resources to Family Relationship Services and Centres;

(b) regular reappraisal of needs and funding to ensure free services;

(c) requiring that Family Relationship Centres focus on quality advice, not simply quantity of parenting plans;

(d) equipping staff to detect the signs of family violence and child abuse and manage violent clients;

(e) ensuring that Family Relationship Centres do not discriminate on the basis of race, religion, age, disability, gender or socio-economic disadvantage and are not used to advocate or encourage any particular political or religious agenda;

(f) instituting a well-resourced and effective complaints process for people who have grievances with Family Relationship Centres or their staff;

demands that the Government immediately release accreditation and quality standards for Family Relationship Centres prior to mediation becoming compulsory;

notes that, while separating parents should be encouraged to settle their disputes without recourse to the Courts, litigation needs to be recognised and supported as a vital pathway for those cases involving family violence or abuse, entrenched conflict or intractable disputes;

notes that the Government needs to invest in and make public thorough, longitudinal research on:

(a) the consequences of family law reform;

(b) interaction between violence and family law; and

(c) the need for a broad ranging parliamentary inquiry on violence in the community;
(9) notes that the Government should, in the near future, conduct a review of how these changes work in practice, with particular consideration of the following issues:

(a) the operation of the requirement to consult on ‘major long-term issues’ (compared to the original recommendation from the Every Picture Tells a Story report limited to location);

(b) the interaction of parenting plans and court orders;

(c) the need to review Schedule 3 as soon as the assessment report of the Family Court’s pilot of the Children’s Cases Program is available, given that these changes are being made before that pilot is completed and evaluated;

(10) notes the Government’s failure to consider a National Commissioner for Children and Young People, who could provide a role developing expertise in supporting children in family law matters’.

With this long list of issues I could speak for days on the changes that Labor would like to see and the many areas in which the government is taking positive steps, but time is against us. I do want to issue a final note of concern that Labor has in this general area of family law, and that is that the government is creating some false expectations about how family law is going to work under this bill. Although the government agrees with Labor, the original committees and all the processes that have assessed this proposal from the beginning that a presumption of equal parenting time is not the way to go, it is sending very mixed messages.

One example of this is the change of the term ‘joint shared parental responsibility’ to ‘equal shared parental responsibility’—another one of those issues where the Attorney-General and I seem to have the same view but where the LACA committee has made a different recommendation. Responsibility for children is not a quantifiable thing that can be cut into two equal parts. Clearly what we are talking about is ‘joint’ responsibility: an obligation for parents—whether together or separated—to make decisions that affect their children together. Changing this term, as the bill proposes, is clearly intended to muddy the waters, with the naive hope that the equal time advocates will not realise that the government disagrees with them on this issue.

It may be that there are people in this House who think that we should just let this debate go through and not raise any concerns about this. But I am concerned that in family law—more so than in many other areas—false expectations have a consequence. Firstly, a lot of nonresident parents will only feel more frustrated when they realise that the government has not given them the change they thought they were getting. It worries me that it is not the government but the family relationship centres that will bear the brunt of this frustration, just as the Family Court did in its early days. Secondly, in the other direction, some victims of family violence may develop the false view that they cannot stop their abuser from having contact with their children. I am advised by some service providers in the sector that this is already happening, mostly involving women who, despite their fears and concerns, feel that new laws mean they will have to accept equal time.

Because we know that a large part of family law is about expectations and that the perception that the Family Court is biased against men affects the view that many men take into negotiations, the government needs to be particularly responsible about managing expectations and combating false perceptions. I worry that the Howard government is shirking this responsibility for political reasons, being too clever by half. Ultimately, that is not going to help Australian families.
As I have indicated, although we have some significant amendments that we think will improve the bill and that we hope the government will support, Labor support the key principles involved in this package of family law reforms. We want mums and dads to love, care for and provide for their children and we want the law to support their doing that, even after family breakdown. Although the Attorney-General has tried to introduce partisanship to this debate with his frequent and, frankly, increasingly bizarre sprays in question time, there is bipartisan agreement on the important issues: encouraging shared parenting responsibility, encouraging nonlitigious resolution of disputes, allowing more flexible and less formal court procedures and so on.

The amendments that Labor proposes will strengthen the family law system’s capacity to deal with those cases where family violence is an issue. It may be a small number of cases across the whole number of cases that go through the family law system, but they are important cases and they are the cases that need our very careful attention and are deserving of any protections that the law can give them. Our proposals do not undermine the fundamentals of the government’s plan. Indeed, the House must remember that many of the amendments simply revert to the Attorney-General’s original plan in the exposure draft he produced. I look forward to returning to the chamber in the third reading stage to debate those amendments in detail. When this happens I hope that the Attorney-General can put aside his recent partisanship on this issue and work with Labor constructively to produce a family law system that truly meets the best interests of Australian children.

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

**Mr Tuckey** (O’Connor) (5.37 pm)—The history behind the Family Law Amendment (Shared Parental Responsibility) Bill 2005 goes back to the Murphy amendments to family law, a very dramatic affair which introduced an argument that the family courts should take into account all welfare payments before requiring any payment from the person then known as the non-custodial parent. As the cost of that escalated, we had the Howe legislation, which created the monster that is now known as the Child Support Agency and the idea of a set percentage of the income of non-custodial parents, as they were then known, for the support of children. Over time, that has been demonstrated to be impractical and grossly unfair.

These matters arose following the submission of a report by the House of Representatives Standing Committee on Family and Community Affairs. The committee was bipartisan and it set down a strong series of recommendations which were then passed on to government. There was a process thereafter which resulted in draft legislation—an exposure draft—being considered by the House of Representatives Standing Committee on Legal and Constitutional Affairs. Because the committee is a standing committee of the parliament, it is one on which both sides were again represented. Included in the membership were the member for Lowe, the member for Chifley, the member for Denison and, I believe, the member for Gellibrand. After considering the original report and the draft legislation, it put forward a report with 56 recommendations, 51 of which were accepted by the government. The committee reported in August 2005 and the government’s response was given in December 2005. It can hardly be said that the response was slow or delayed.
There was only one dissenting report, by the member for Gellibrand. As seems to be occurring in this place, a person, possibly with shadow ministerial responsibility, is jumping up and driving policy for the Labor Party at a time when other members of that party either hold an alternative point of view or have participated in a process to come to conclusions to enable this parliament collectively to resolve some quite tragic circumstances, including suicide, that have resulted from legislation well past its use-by date.

Why is it that today, after those extensive processes over some years, the member for Gellibrand—on behalf of the Labor Party, as she claims, and in defiance of the recommendation supported by the member for Lowe, the member for Chifley and the member for Denison—now comes to the parliament and wants to rewrite the legislation in a significant fashion?

What are the recommendations of the member for Gellibrand—the amendments she wants this parliament to pass? She wants to rewrite the provisions relating to family violence. She wants to virtually re-create the situation where family violence could block out access to the non-custodial parent—a thing that has been done time and time again. The legislation is quite specific. The government reforms protect children from the risk of violence or abuse by making them a primary factor to be considered in child custody cases. We do not subscribe to the view of the provision being abused—as occurs, unfortunately, in family breakdown, where a particular parent will make unsubstantiated accusations of that nature—as a means to frighten the courts and others from that minor risk that might occur in those cases of any violence whatsoever. It is a tough issue; it has been addressed. At this stage of the game, after all the consideration that has been given to the clause, it is inappropriate that it should be changed by amendment in this House and in the climate of this House.

The member for Gellibrand wants to remove the prioritisation of a child’s right to know both parents and a child’s protection from family violence—a provision approved by the committee. She wants to change that notwithstanding that it has been through these previous processes. The member for Gellibrand wants to reject the change from joint shared parental responsibility—and she just repeated that—to equally shared parental responsibility. She wants to change the word ‘equal’.

That is exactly what these amendments are all about—equality between two parents who have decided to part ways, but in the interests of the children. As we all know, if the kids could take a vote, they would frequently prefer their parents to stay together. At that point in time that issue is beyond them. But in relation to the right of the parents to share in equal terms, the responsibility for the children should be one of the highest of the challenges.

The member for Gellibrand wants to remove the provision allowing cost orders against persons who make false accusations of family violence. How silly is that? Of course people should be discouraged from making false accusations and of course there must be some sort of evidence available if family violence is in fact a matter for consideration and, as we say, a primary factor in the removal of the opportunity for the other parent to have equal access to the children of that marriage.

The member for Gellibrand wants to remove the requirement for parents, before going to court, to first make a genuine effort to resolve their issues in mediation. She wants some guarantee that the funding will be there forever. No parliament can commit a future parliament. There is plenty of evi-
dence of such arrangements being broken when those in opposition move to being in government. Nobody can bind a future parliament, so why ask for silly measures like that to be included to make a political point?

Above all, when can the Labor Party, the opposition, get its act together? I repeat that there has been a very significant process in arriving at this legislation today. The Standing Committee on Legal and Constitutional Affairs is a pretty logical place to send some draft exposure legislation. It is made up of people who have committed themselves. They typically have legal backgrounds. The chairman, Mr Slipper, whose electorate is Fisher, has a legal background—just like, I would imagine, most of the others. They went through it bit by bit. For all the hoo-ha we get about debating legislation in this place, the 20 minutes made available to us is pretty cursory. This is not the place where you get all the answers, unfortunately. That is why we have committees. That is why they have done their work. As I said, the committee put forward 56 recommendations, of which 51 have been accepted by the government and included in this legislation.

All of a sudden, after all of that, because the member for Gellibrand feels that she has some other constituency to which she wishes to respond—and please note that I did not say ‘respond to’—the fact of life is that she wants to rewrite the bill. I am highly critical of that. Her colleagues—whom she has defied, considering the hard work that they have put in—should have some complaint back in the caucus. It is not good enough and this is not the sort of legislation that should require a political response.

I might give the member for Gellibrand a bit of advice in her absence. She has not hung around for my advice. I have only been married for 47 years; I am no judge of these matters! By the way, what a statistical family mine is: of the four kids in my family, two are divorced and two are still married. I guess we have seen both sides of the argument in every respect. But you have to be very careful politically when you start to decide that you will support one sex against the other.

As I advised our party room today, my office is full of a lot of complaints from females. They are typically the mothers of non-custodial parents or the second wives of non-custodial parents. If you just want to think that this is a man-woman argument, you should be very careful. The fact of life is that this concerns legislation of years ago, put in by the Labor Party in response to previous legislation generated by the Labor Party. The reality is that the legislation was a failure. It has created a very arrogant organisation called the Child Support Agency and policies that will be addressed in this legislation—for instance, telling farmers in my electorate who have had three years of drought that the fact that they have not earned any money is not a matter for consideration. ‘You have the potential to make $100,000 a year on your farm, Mr Smith. That is what we will strike your contribution upon.’

Then there is the situation where there was a family with two houses on a farm and the wife of the person involved decided to pack up and go to town away from the extended family—the grandparents and others. I found it just unbelievable. The fellow apparently went to try and reconcile things and the next thing the police were out there taking his rifle away from the homestead. Knowing the family involved, I do not think there was violence of any description.

There is case after case where the existing legislation has failed people, failed children and been grossly unfair. As I said, I understand that suicides were virtually a weekly occurrence—and murder, and that is the most
heartbreaking: when children’s lives were taken because of the frustration of parents wishing to take it out on the other party in the most horrible way.

Today we are assessing how we might fix that and put some justice into it so that there is proper access and people feel confident from the beginning. Why all of a sudden during the debate should the member for Gellibrand start to sling off about government administrative incompetence and attack the Hillsong Church? Why chuck those nasty little bits in on a matter of such importance? After the due bipartisan processes that have occurred in this matter, today she asks for the legislation to be rewritten? It is wrong and it is silly. It is one person trying to pick up a constituency or give themselves some place in history. It should have been today that people in this parliament joined hands on this issue.

If I can detour just slightly for a moment, we should also be doing so on taxation. You do not need to be Albert Einstein to know what is wrong with the tax system and to identify the best responses. We should be able to have the capacity on both sides of this House to fix it. It should not be an issue of saying, ‘Can I surf to victory at the next election on some aspect of it?’

These are the big issues—families, taxation and the economy. They should not be—as they are—a situation where someone says, ‘I can gain political advantage if I go out and try to change this, if I go to some particular group and say, “I did my best for you.”’ We have been through that process. People from both sides of this parliament and the people I have quoted are amongst the most dedicated on this issue—the members for Denison, Chifley and Lowe. Why not take their advice and that of the coalition members and get on with the job?

It is in my mind important that this legislation passes without these amendments. But there are still government amendments to be considered, and I naturally support them. Let me in brief say this: this legislative package will cost the taxpayer some $397 million and probably more. It will be money well spent to achieve the reforms that we want. Schedule 1 recognises the need for a cooperative approach to parenting. Yes, if you want to go your individual ways for whatever reason, think about the kids. Cooperate, get together and do things. Under schedule 1:

... children have a right to have a meaningful relationship and know both their parents and ... parents continue to share responsibility for their children after they separate.

Might I say it is shared equally. It is no longer the case that we separate the sexes in employment, income or responsibility. I can point within my extended family to a housefather who has undertaken that role throughout the married life of that family with three children. In those circumstances, why is it that in past legislation and past legal practice we have differentiated? On schedule 2:

Schedule 2 contains a range of amendments to strengthen the existing enforcement regime in the Act. Breaches of court orders are a major source of conflict and distress to all parties ...

Of course people who are told by the courts, for instance, to give access to the other partner should obey that instruction and of course they should be penalised if they fail to do so. In fact, the division—that is, schedule 2—will provide:

... clearer and more accessible provisions that will make the whole Division easier to understand.

That is a challenge for us as legislators every time. On schedule 3:

The amendments in Schedule 3 provide for a less adversarial approach to be adopted in all child-related proceedings under the Act.

Who could criticise that? On schedule 4:
Schedule 4 contains a range of amendments to the counselling and dispute resolution provisions in the Act to ensure the legislation supports the Government’s policy of ensuring that separating and divorcing parents have access to quality family counselling and dispute resolution services so that they can attempt to resolve their disputes outside of the court.

The amendment proposed by the member for Gellibrand removes the responsibility to attend mediation in a genuine fashion. In other words, she wants a situation where people on the advice of their legal counsel can go to mediation and say: ‘I’m not talking. I refuse to speak. I refuse to cooperate.’ What a ridiculous situation.

This Division deals with the relationship between orders made under the Act that provide for a child to spend time with a person, and family violence orders made under a law of a State or Territory to protect a person from family violence.

But it gives directions to state and territory magistrates as to how they might deal with those matters. Finally, on schedule 6:

Schedule 7 repeals section 45A of the Act to enable the Federal Magistrates Court to also exercise jurisdiction for those property matters where the value of the property exceeds $700,000.

It starts to become commercial and not fought out. It starts to be about property rights rather than a case of, ‘I’ll get you.’ It should be reasonable and it should be properly discovered. I reject the amendment proposed by the opposition. I doubt any reason for its being here, considering the processes that have preceded this legislation. I trust the parliament will do its job and come up with this bill as it has been agreed.

Ms PLIBERSEK (Sydney) (5.57 pm)—I would like to speak today on the Family Law Amendment (Shared Parental Responsibility) Bill 2005. But first I want to address some of the things that the previous speaker, the member for O’Connor, said. He mentioned the tragedy of murders and suicides in families post separation. Indeed, the most dangerous time for a woman is just after she has left a relationship. In many instances that applies to children as well. It is something that we as a parliament need to take very seriously. Every week or every couple of weeks we read in the paper about another tragedy. Yesterday I read in the paper about a tiny baby and his mother burnt to death in the family home, and the coroner is investigating that incident. There have been a number of incidents recently that I perhaps should not speak of in any detail because they are still being investigated.

To say that our automatic response to these tragedies has to be to change family law to make it easier for parents who in the end are able to act in this way towards their own children to have access to those children seems to me to absolutely defy logic. I understand that the member for O’Connor is talking about the frustrations that people experience post divorce, and I think those frustrations exist on both sides of a broken relationship, but to say that the solution to suicide and, in particular, to the murder of children is to make it easier for people to have access to those children really defies belief.

On a slightly lighter note, I would like to say that 47 years of marriage is a marvellous achievement. I commend the member for O’Connor, and I particularly commend Mrs Tuckey. I am sure that they have been 47 very interesting years.

The government has been tinkering with the family law system now for about a decade. Unfortunately, in my view there have been few real positive changes during this time. There has been a number of parliamentary inquiries and a number of government inquiries, particularly since the year 2000, that have responded to very strong feelings across the board in the Australian community about this issue. It is no wonder that these
feelings are strong when you look at the shocking rates of divorce in the Australian community and the number of people who are affected, either directly through their own marriage breakdown or, as the member for O'Connor said, through witnessing the effect of the relationships of their children, friends, brothers or sisters.

This bill to amend the Family Law Act is an attempt to make improvements to family law. In the end I expect that we will support the legislation as it is before us. I think it is wise, at the end of the day, because there are some improvements in the bill. But with the amendment that our shadow Attorney-General has proposed this legislation could be a much better package. I really would urge the Attorney-General to give more detailed consideration to the amendment that the shadow Attorney-General has proposed, because I think she has given a great deal of thought to this issue and that the proposal she has put before us is very sensible and addresses some of the very important issues that have been raised not just by members of parliament and expert groups such as the Family Law Council, the Family Court itself and the legal centres around the country but also by constituents that have contacted our offices and given us their views.

The measures that I support in the bill are the measures that encourage both parents to take more responsibility for their children. Of course in an ideal world we do not leave equal parenting until divorce. We want parents—mothers and fathers—to take responsibility for their children from day one and to have as equal a relationship with their children as possible from day one. I support any notion that says mothers and fathers are important when it comes to bringing up kids. I also support provisions that create and promote alternatives to the legal system.

I support the establishment of family relationship centres, although I am going to withhold my final decision on how well they are going to work until I see a bit more detail about what is proposed. I support any counselling, certainly after marriages break down—when it can help people get along and help them balance the competing demands of their children, property disputes and so on—but also, preferably, before marriages break down, when it can help people work out how to better communicate and how to balance the demands on them when it comes to their parenting responsibilities, their other caring roles and their work responsibilities. I think any one of us could benefit from a bit of professional advice from time to time about how to improve our relationships.

I do not support some of the other measures in the bill, and I want to speak a little bit about those. First of all, I want to talk about the criteria for the establishment of the family relationship centres. It is extraordinary, isn’t it, that with a committee of eight coalition backbenchers to oversee the development of the criteria you have got six marginal seat members out of those eight who—wow!—all, except one, received a family relationship centre in their electorate. I do not know who the dummy was that missed out. I do not know how you miss out in a circumstance where you are the one putting the list together. In a situation where you have got a select group of people working out where the family relationship centres go, with very little transparency about how the decision is made, I do not think that the public can really have faith that the centres are going to the areas that need them most. It certainly looks like the government is more interested in pork-barrelling than in parenting.

I am also concerned about the quality of the services that the new family relationship
centres will deliver. The Attorney-General’s family relationship centre information paper is loaded with styling tips for centre decor but pretty light on the details about service quality. For example, it makes clear that the centres should have:

- a modern but not clinical setting, and
- homely decor with soft lighting and bright (not dingy) colours and comfortable furnishings.

I am always keen to get styling and interior design tips from the Attorney-General! But what I would appreciate even more is advice about how the quality control is going to work for family relationship centres, what sort of training staff will get in identifying and dealing with violence issues and how family relationship centres will deal with complaints—there is no complaints mechanism set out in the information paper. So a little bit less on the interior design and a little bit more on how the family relationship centres are going to work would be greatly appreciated.

I am also extremely worried about the change in the definition when it comes to violence. The member for O’Connor made light of this change. It is a very significant change, in fact. In the bill the Attorney-General seeks to amend the definition of ‘family violence’ from its current subjective definition to what is being called an ‘objective definition’. The new definition means that a victim of violence must prove that their fear is reasonable. That is why it is called an ‘objective test’. The new definition means that a victim of violence must prove that their fear is reasonable. That is why it is called an ‘objective test’. It is a very different definition to the definition that the states use when they are dealing with violence issues. The states’ definition is based on the behaviour of the perpetrator. I think that makes it much easier to be clear about a situation where a person might be fearing violence and why they would be fearing violence. We believe that the definition should remain unchanged. I note that the Attorney-General, in the exposure draft, did not want to amend the definition of ‘family violence’. Perhaps he was right in the first place and he should go back to his original instincts on this.

The Attorney-General’s own department and the Family Law Council have advised against changing the definition of ‘family violence’. I think the Attorney-General would be wise to listen to his advisers. The Family Court, the biggest service provider in this area, also advises against changing the definition. I believe it is dangerous and unnecessary to change this definition. The problem is that it will make it more difficult for real victims of violence to prove real violence.

I will give you an example of a constituent—let us call her ‘Jenny’—who is a client of a community legal centre in my electorate. Last year she finally left a long and very violent relationship. At the beginning of their relationship, her ex-husband was frequently violent but in the later years of their relationship the violence was less frequent. He was still very controlling and very abusive in other ways and did occasionally hit her but not as often as he did at the beginning of the relationship—in part, because Jenny, like most victims of violence, had become very adept at recognising the signs of what was coming and defusing the situation where she could. That meant that Jenny—likes tens if not hundreds of thousands of Australian women—walked around on eggshells, as would the kids. In any case, under the government’s proposed ‘objective’ definition of violence, it would be very hard for Jenny to prove the behaviour that she recognised as the early signs of a pattern of behaviour that was likely to escalate and lead to violence—for example, a look or the way her husband was speaking or something that she noticed in his pattern of behaviour that told her that,
if things went along their usual path, she was in for it. Anyone looking at that from outside would find it very difficult to recognise what it was that Jenny found threatening in her husband’s behaviour. How could you prove without the history and the context, without knowing the detail of that relationship, that Jenny had a reasonable fear of violence?

The new proposed ‘objective’ definition will apply to all provisions of the Family Law Act that deal with family violence. Many of the provisions are procedural but very important. Where there is violence, matters can be intensively case managed or fast-tracked. Shuttle conferencing can be used. To lose those options when there is violence or a fear of violence would be a great loss. It is also important that the procedures be available to families where a parent has a fear of violence. They should be available where that parent feels a fear and should not be based on whether outsiders consider it reasonable for that parent to be fearful.

The effect of an ‘objective’ violence definition when it comes to procedures for compulsory mediation is also alarming. If Jenny cannot prove that her fear is reasonable, she may be forced to attend compulsory mediation with her ex-husband, whom she fears. However, mediation is based on two people who have equal bargaining power. If Jenny does not want to attend mediation—if she jacks up about the mediation, and the family relationship centre writes a negative report saying that she is uncooperative—it is not laid out anywhere in the legislation how she can object to that report and challenge the family relationship centre’s negative assessment of her behaviour without knowledge of the background to the relationship.

I am also strongly opposed to the provision that allows for cost penalties for ‘false’ accusations. We are a country of 20 million people. Inevitably, sometime, somewhere someone has made an accusation of violence that was false—of course that is not beyond the realms of possibility—but we do not know how great is the problem. The Attorney-General is having that investigated. It might be better to wait for the Australian Institute of Family Studies, which has just been commissioned to do this research by the Attorney-General, to come up with its results.

We do not know whether this is a big problem. I spoke to one of the representatives of the groups that claim that this is a problem. I asked him how he knew that false accusations have been made. He said, ‘Because the blokes in my group tell me they never did it.’ So, ‘I’m innocent, Governor.’ That is the only argument that people can put up against this suggestion of there being massive numbers of false accusations of violence in the community. What we do know is that there is a massive underreporting of violence, the reasons for which are varied. Unfortunately, many of the reasons apply to underreporting of sexual assault as well—shame, fear of reprisals, lack of family support and inappropriate police responses.

We know that, for years, women have not wanted to speak about violence in the home. They have seen it as being their fault. They have seen it as an issue for their family to deal with within the family. It is beyond me to imagine that, somehow, false accusations are a greater problem than this documented massive problem of underreporting. We know that family violence costs the Australian community $8 billion each year.

Australian empirical research strongly suggests that false allegations are rarely made. The member for O’Connor might like to look at research by Hume and by Brown, Frederico, Hewitt and Sheehan on false allegations. These allegations have rarely resulted in the denial of parental contact. There
is research on that by Rhoades, Graycar and Harrison and by Rendell, Rathus and Lech. In my view it would be much better if the Attorney-General waited for the research he has commissioned in this area. He could even look at the research that has already been done and address the problem of under-reporting of violence rather than just assuming that, because there are a few people in the community who raise it in emails that he gets, there is a massive problem of false allegations out there.

I am also worried about what parenting plans will mean for Australian families. It is fantastic when couples come to an arrangement between themselves about how they deal with the kids post separation, and most families do that. Divorce is never a happy time. If you were happy, you would stay together. It is a miserable time for most people. But research shows that 94 per cent of families who file papers in the Family Court actually settle their disputes by agreement. The vast majority of parents know that it is the kids who suffer in divorce and they want to avoid that at all costs.

Parents have been able to file consent orders or parenting plans with the Family Court without costly or drawn-out litigation, but the government does not like that approach. Instead, they want this approach of parenting plans which can be drawn up in family relationship centres and which will in fact trump previously made court orders.

You might have a case that has gone on for three weeks with a children’s advocate and lawyers at 50 paces and evidence produced about previous abuse or neglect—all the things that come out in a court case—and if someone gets bullied into going to a family relationship centre and writing down a parenting plan between the two of them at one of the tables at McDonalds, that plan should not have more effect than previous agreements made through the Family Court. However, the parenting plan, which would not be registered with the Family Court and which will have been made without legal advice in a room at a family relationship centre, trumps the previous orders made by the court after a three-day to three-week hearing. We do not know how skilled the family relationship centre mediator will be. I hope that there will be skilled people there, but there is no guarantee of that. I am very concerned about this.

Finally, with regard to the equal shared parenting responsibility, we want parents to have equal responsibility. But we need to put the best interests of the kids first, and equal responsibility does not automatically mean equal time. In the end, we will support this legislation because of some of the good measures in it, but I believe that if the Attorney-General took the advice of the shadow Attorney-General and listened to his own department, the Family Law Council of Australia and the Family Court, he would improve the legislation. (Time expired)

Mr FAWCETT (Wakefield) (6.17 pm)—I rise to speak to the Family Law Amendment (Shared Parental Responsibility) Bill 2005. Firstly, I wish to make the point that this is a part of a holistic program that this government is putting in place to support families. This program looks not only at family law amendments but also at changes to the Child Support Agency and, as the member for Sydney has indicated, at the introduction of family relationship centres. These three elements working together are an investment in the future of families here in Australia.

The context of these changes is important because, despite some of the accusations, the focus is very much on what is in the best interest of the child. We are looking here at the rights of the child—what they should
expect from their family, whether that be an intact family or a family post separation.

In that context, I want to come back to the family relationship centres quickly before I move on to the rest of this bill. I am disappointed that again the member for Sydney and the member for Gellibrand have tried to score cheap political points from an initiative which is genuinely intended to be for the benefit of Australian families. That was very apparent even in mid last year when the media were reporting on why there was a steering group set up. It was set up because of the interest of backbenchers who wanted to see the very thing Labor are talking about, which is that the implementation of these centres works out.

I will give you a good example. When the member for Gellibrand was talking about FRCs, her focus immediately switched to what I call the tertiary end—looking at referral, counselling and mediation. The focus was very much on families that are going through the painful and damaging process of separating. One of the dangers for the FRCs is that, if they focus purely on that separating end, they will become known as divorce shops.

Part of the real problem—and I am really pleased to see that the member for Sydney highlighted this—is that the proactive marriage and relationship education side will get lost. That is happening at the moment because the oil normally goes to the squeaky wheel and it is the people who are hurting who are demanding a lot of attention, and that is where a lot of the resources go. What we have found is that many people who look at the FRCs look at them purely in the context that the member for Gellibrand did, which is in the context of separating families, and they ignore the incredibly powerful work that FRCs can do in providing services to the vast majority of Australians who are not in that situation.

It is really important that we look at Australian demographics. My friend the member for O’Connor—and I likewise applaud him and Mrs Tuckey for their marriage of 40-odd years—came out with what many people see as fact. He said that the divorce rate is 50 per cent. That is not the case. It is actually far lower than that. The figure of 32 per cent is often now bandied around as a result of work by the Institute of Family Studies, but even that is a figure which goes across a range of decades, looking at marriages and what the risk is of a couple separating over a period of time.

If you look at the censuses taken in Australia from 1901 right through to 2001 you see a continual increase in the percentage of married people in Australia to around 50-odd per cent. There has also been an increase in the percentage of people who are either yet to be married or are widowed. People are delaying entry into marriage and people who are widowed are living longer, and so that percentage is getting larger. But the percentage of Australians who are divorced or separated is around the 10 per cent mark or lower. The actual figure is around two million people. That is a huge figure and there is a huge amount of hurt there. However, that also says that, if we are to prevent more people ending up there, we need to focus on proactively helping families to build stronger relationships so that they do not end up in the situation that this whole family law amendment bill is about. Part of the reason for the existence of the task force is to make sure that the implementation stays on track across the spectrum of measures.

I would like to briefly address some of the other claims about the FRCs before I talk about the family law amendment bill. I believe this point is really important. I agree
with members opposite who talk about things like KPIs and looking at performance measures that do not just turn these places into sausage factories. I fully concur with that, and that is why, if you read the operational framework, you will see that throughout it we do not just look at the number of parents who attend the course. The feedback is the number of parents who, after working with an FRC, report a positive improvement in the quality of their communication with the other partner post separation. We are not just talking about the number of parenting plans; we are talking about the number of parenting plans which are still being followed and are adding value at least a year after the parents have been to the FRC. Through the KPIs, it is not numbers; it is numbers and quality, and it is that quality aspect which we are very keen to see in there.

For example, objective 3 specifically looks at the delivery of high-quality, timely, safe and ethical services through the FRC. So there is a focus on quality, because we recognise that just having the centres there is not enough. They must be delivering a quality service to support intact families, whether they are just getting married, having their first kids or having teenagers—that is the phase of life I am in, and I have to tell you that none of us can do that without a bit of help and guidance at times—or whether it is people at the point where they are really struggling and need some assistance.

The issue of competency has also been raised a number of times. I wish to reiterate, as I have before in this place, that one of the processes of the task force is to engage with subject matter experts in industry who are working with families already around Australia—whether it is Indigenous people, whether it is in languages other than English or whether it is people looking at marriage counselling or mediation or people who are expert in screening for violence. One of the functions has been to draw together reference groups and steering committees to guide the skills council as they look at bringing together the framework which is going to outline the competencies and skills that people working in FRCs need.

I would like to lay to rest the two accusations that have been made today: firstly, that the implementation is flawed because of a lack of detail—that is clearly not the case; and, secondly, I would like to rebut in the strongest terms the idea that the task force which the Attorney-General has set up is there for anything other than reasons of making these centres work for the benefit of Australian families. I reiterate again that the members in the task force have specifically had no role in making decisions on issues such as the locations of these centres. I wish that to be on the record yet again.

While we would all like to see families stay together because that is clearly the best outcome for the children, based on the 2001 census we know that roughly 55,000 couples a year separate and eventually go through divorce. This has a huge impact on the children and extended families. Whilst it is not desirable that people reach this point, the fact is that we need to make this process as manageable as we can and to get as much of the adversarial process out of it as we can. I would like to address a few of the key points that these amendments bring in.

I particularly want to address the presumption of shared parental responsibility and the obligation on the courts, under these amendments, to consider if equal time with both parents is reasonably practicable and in the best interests of the child. Many of the people who have spoken against these amendments have left out those last two parts: is it reasonably practicable and is it in the best interests of the child? This amend-
ment provides the platform for the courts to consider whether the involvement of the other parent is something that will be of benefit to the child. Many of the claims that are against this are based around the premise that, before the separation, one parent—normally the father—did not spend equal time with the child. Therefore it will not work and it should not work afterwards and he should not even consider or hold out hope of having anything approaching equal time with the child.

I think most people in Australia accept the fact that the mores of our society mean that there is a social contract that often—not in all families but often—one parent will take on the burden of working and one parent will take on the greater burden of the day-to-day hands-on care of the children. That does not imply that there is a difference in quality of relationship between those two people and their children. The attitude of both parties, and particularly the relationship between those parties, is critical to defining how good the relationship is between the parents and their children.

I look at my own background and I see many service men and women who frequently have to work long hours and are away from their families, but what I also see are some of the best parents and best fathers I have known. They have good relationships with their wives and they have an attitude that says, ‘Where I possibly can, I am going to proactively invest in my relationship with my wife and my children.’ Whilst the time may be limited, the quality of the relationship is outstanding. Obviously there are many people who, even though they have abundant time, do not make a priority of the relationship. I understand then why some of the angst occurs about whether they should have equal time after separation. The argument that says that before separation they did not have equal time and therefore they should not have it afterwards just does not withstand scrutiny.

It is also important to see that the same people who argue that often say that quality time post separation is more important, so the non-resident parent—normally the father—should be happy with a couple of days a fortnight or maybe a week in the holidays, because it is quality that counts. If they really believe that, that undermines the premise of their first argument, which said that because the father was not there in equal quantity of time before separation he cannot possibly have a good enough relationship to make things work seeing more of the child afterwards. It is a self-defeating argument. I believe it is important that not only do both parents have an opportunity to invest in the lives of their children pre and post separation but, more importantly, they have an obligation and a responsibility.

I throw out the challenge to the fathers of Australia to consider the balance of their lives and where they place their priorities, because dads have a fantastic opportunity to shape the culture and the quality of family life such that separation will never occur. They also have the opportunity to add tremendously to the development and growth of their children. I know that many fathers out there are doing that fantastically. Most of us are learning along the way, as we learn about our changing roles as fathers and husbands. There are some people who do need a fair bit of help. All of us can do with help, and some need a bit more than others.

I also wish to address the measures in the legislation that look at domestic violence—the occurrence of it, the threat of it, the reporting of it and the misuse of it. The member for Sydney talked about a person called Jenny—a hypothetical person or perhaps another name for a person that she knew—and was concerned that Jenny had a history
of violence with her partner and would not be able to get the protection she needed. Again, I come back to the fact that in the proposed legislation the use of the word ‘reasonable’ means that, where somebody does have a track record and they say that their partner has demonstrably used violence against them or their children and there are circumstances where this has occurred, that becomes a reasonable fear of violence. The legislation allows for exactly the case that the member for Sydney raised.

The legislation also provides some defence against using the fear of violence as a very convenient excuse to short cut a number of other measures. I believe that in this change the checks and balances are there to protect women. The balance is also there to protect men from false claims of violence. I have to say at this point that there are times when men are the victims, not the perpetrators, of violence, and that needs to be recognised.

Before I leave this point, I come back to another area where the FRCs have a vitally important role. As in so many areas of legislation, we react to the symptoms—in this case, violence—but we do not necessarily address the cause. Normally, family violence comes down to the role modelling that people have in their own family of origin, a lack of ability or awareness of how to communicate or how to resolve conflict. The importance of family relationship centres is that they will be another means for providing people with the life skills they need so that they do not have to resort to violence or, if violence has been in their family of origin, that they are provided with the awareness that that kind of conduct is destructive for them, their partner and their children and that they are given alternatives so that they can look at different ways of dealing with those problems.

I am pleased to see, and I certainly support, in the amendments ways to reduce the level of bitterness of parties in disputes. The measures include mediation and parenting plans through the family relationship centres and the roll-out of what has been trialled through the children’s cases programs in the Sydney courts where there is an inquisitorial rather than an adversarial process—the feedback from that has just been fantastic for both the participants and the judges involved. I welcome in these amendments the encouragement and direction to roll that program out across Australia.

Schedule 2 looks at enforcement regimes. Much of the anger of certain groups in the community comes back to the continual and often vexatious breaches of court orders regarding access. This legislation provides the court with a range of options to better enforce access or parenting orders. Parallel to this are measures under the CSA changes, which were announced today, looking to remove some of the financial disincentive to both partners making that access work.

I think it is important to note that the focus here is on the best interests of the child and the rights of the child to have a relationship with both parents. This means that both parents have a responsibility. The custodial parent has a responsibility to make sure that they provide the opportunity for the child to have access to the other parent and, equally important, the parent who has won through whatever process access rights to that child has a responsibility to make sure that they are there consistently for that child.

In the case of a number of single parents that I know of, the other parent does not provide any input to the child and I have seen the devastating impact of that on those children. It is important to note in this legislation the encouragement for both the resident and non-resident parent to see that they have not
only the opportunity but also the responsibility to have that contact, because the child is the one who has the right to have the contact and a meaningful relationship with both parents.

In conclusion, it is important that the parliament recognises that the best interests of the child are served by a healthy, functional, loving and caring family environment where both mother and father remain in the marriage and provide such an environment for the children. It is important that we support bodies like the FRC, but it is also important that we acknowledge that marriage is not an agenda from a particular part of the community, as was inferred earlier by members opposite, but a social good.

Many studies by demographers and social researchers in Europe, the United States and Australia demonstrate the physical and mental health benefits as well as the financial and educational outcomes for children who are raised in a stable, loving marriage. Not every marriage is perfect, and the whole process of working through difficulties often makes a relationship stronger and the children more resilient. Just because marriages are not perfect does not mean that the parliament should not publicly and frequently advocate and support it as an institution.

Marriage is not an agenda of a particular part of the community. At some point in time, 72 per cent of our community express the desire to be married and supported. Christians, Hindus, Muslims, the Jewish community and many people who have no allegiance to a faith still recognise the value of marriage. So I believe it is not an agenda of one group but a social good that this government should support. For those who for reasons quite often beyond their control do not find themselves in a position to follow through for the 47 years that the member for O'Connor has in his marriage, this legislation provides some significant and welcome changes that will ease the process of the separation that does cause so much pain to so many families. I commend the bill to the House.

Debate (on motion by Mr Ripoll) adjourned.

Referred to Main Committee

Mr BARTLETT (Macquarie) (6.37 pm)—by leave—I move:
That the bill be referred to the Main Committee for consideration.

Question agreed to.

MINISTERS OF STATE AMENDMENT BILL 2005

Second Reading

Debate resumed from 27 February, on motion by Mr Nairn:

That this bill be now read a second time.

upon which Mr Kelvin Thomson 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 allowing Ministerial standards and accountability to decline at the same time as Ministerial salaries are increasing”.

Mr SLIPPER (Fisher) (6.38 pm)—At the outset I would like to congratulate the honourable member for Wakefield on his very thought-provoking contribution on the Family Law Amendment (Shared Parental Responsibility) Bill 2005. I found it particularly interesting, and I believe it was a valuable addition to the debate in this place.

When I was interrupted last night by the adjournment debate, I had virtually finished my contribution on the Ministers of State Amendment Bill 2005. The bill itself is not a controversial bill. A bill of similar form enters the parliament each year. Usually, both sides of politics support this bill because it is
a sensible bill which provides a mechanism that allows for the allocation of the additional remuneration that is required to meet additional ministerial salaries.

The opposition has sought, through the amendment, to politicise this debate, and that is a matter somewhat lacking in virtue, in my view. I think this bill, being a machinery bill, is worthy of a speedy passage. When I look at what we do not pay our Prime Minister, our Treasurer, our senior ministers and other ministers, I think that at some stage some government in Australia will have to grasp the nettle and redress the situation where heads of departments are, in some cases, paid two, three or four times the amount of salary paid to the minister in charge of that department. I am not suggesting that those senior public servants are well paid by corporate standards, but someone at some stage will have to look at ministerial remuneration.

I know the Prime Minister, the Treasurer, the Deputy Prime Minister and other senior ministers would work for virtually nothing if that were permitted, but equity determines and demands, in my view, that people who do have that high level of responsibility should receive a remuneration commensurate with that responsibility. When one looks at what some of the chief executive officers of Australian companies receive today and what the Prime Minister does not receive, one clearly sees there is some obvious lack of balance.

This bill will ensure that the Ministers of State Act 1952 continues to have the capacity it needs to meet the remuneration requirements of the government to ensure that ministers in fact receive the salaries and other remuneration that ministers under the law are currently entitled to. On that basis, I am very happy to commend the bill to the House.

Mr MELHAM (Banks) (6.41 pm)—I rise to speak on the Ministers of State Amendment Bill 2005 and also to particularly address my comments to the second reading amendment moved by the member for Wills, which reads:

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 allowing Ministerial standards and accountability to decline at the same time as Ministerial salaries are increasing”.

The explanatory memorandum to the bill, under the heading ‘General outline’, states:

This bill amends the Ministers of State Act 1952 to increase the limit on the sum appropriated from the Commonwealth Consolidated Fund in 2005/6 and beyond in respect of the salaries of Ministers of State. The increase is necessary following a determination of the Remuneration Tribunal with effect from 1 July 2005 that increased the base salaries of all Senators and Members. The additional salaries of Ministers of State are set as a percentage of the base salaries of Senators and Members, so when the base reference point increases for Senators and Members, so too do the salaries of Ministers.

And, under the heading ‘Financial impact statement’, it states:

The effect of the amendment is to increase the total sum available to be appropriated for Ministerial salaries by $400,000 in financial year 2005/2006 and beyond.

I do not bemoan ministerial salaries, or indeed parliamentary salaries, but I think they need to be looked at in globo, because there are a lot of benefits that flow with them. Some years ago we had a celebrated debate that concentrated on superannuation. I must say that, from a personal view, it has quite wrongly resulted in a marked differentiation between the salaries of newer members who were elected at the last election and existing members. It is my view that there are a lot of other things that could have been concentrated on which were let through the net. If you pay people and you pay them properly
then they also have to be accountable, as the second reading amendment says. In the last number of years, we have seen ministers who have not been accountable to the extent that they should have been.

A very interesting publication was produced by the Parliamentary Library, called That’s it—I’m leaving. It traced resignations of ministers—some forced, others not forced—way back to 1901. There were a couple of resignations in the Fraser period. On 20 April 1982, the Hon. Michael MacKellar, the member for Warringah, resigned as Minister for Health over his non-payment of duty on a colour TV set he imported and the submission in his name of an incorrect customs declaration form. The Hon. John Moore, the member for Ryan, resigned as Minister for Business and Consumer Affairs on 20 April 1982 over deficiencies in his handling of the payment of duty on the colour TV set imported by the Minister for Health, Mr Michael MacKellar. They were but two of the resignations throughout the period, but there were appropriate standards applied—as there should be, because, when you are in public office and receiving public money, in my view there needs to be a proper level of accountability.

In the first couple of years of the Howard government, which this week celebrates 10 years, we saw the forced resignation of five ministers and two parliamentary secretaries in the years 1996 and 1997. Since then, there has been zip. Basically, the shutters went up and, irrespective of the merits of particular cases, we have seen a redefining of ministerial accountability. That does none of us any good. I have an old-fashioned view of accountability and propriety. It was fascinating to read about a number of ministers in the early years resigning because of differences within cabinet about their policies, and other ministers being forced to resign in relation to articles that were published that were seen to be in breach of the position of the then government. That is all in that wonderful publication from the Parliamentary Library. So, when it comes to the Ministers of State Amendment Bill and remunerations, I have no problem in supporting increased remuneration to ministers, but we need to not have a shifting set of values when it comes to ministerial responsibility, because that diminishes us all.

The other thing that I think we need to look at, as members of parliament and as ministers, is proper savings to offset some of these salary increases. We demand productivity increases of the general community—and, indeed, in negotiations over their salary packages under the new regime, many workers in this country will be required to forfeit standards and conditions that they have held over a long period of time. Yet, as members of parliament and, indeed, as ministers, we have seen—I will have had 16 years in this place next month, on 24 March, and I have seen it—year in and year out, remuneration or entitlements creeping up and up.

The only time there was a retrograde move was the one I mentioned earlier in my speech, to do with parliamentary superannuation. That was an easy one for some members of the community and some on our side, I concede, to go after, but I think—with the greatest of respect—that it was the wrong thing to go after. I have no problem with proper community standards applying to us, but the nine per cent, in my view, is below the community standard. Fifteen per cent is more appropriate for the newer members, and we will see what transpires over time in relation to that.

There is one entitlement that ministers and former members have that I think should be withdrawn immediately. I am only speaking for myself here; I am not speaking on behalf of the opposition or the Labor Party, but
these are some of the chestnuts and some of the things that I have a bee in my bonnet over. I think that, if they were looked at, they would give us more credibility. That entitlement is the gold pass for former members for parliamentary travel. For the January-June six-month period of 2004, that cost taxpayers $397,000. From July to December 2004, it was $497,000. From January to June 2005, it was $557,000. And, as I said, this appropriation to do with the bill before the House is for $400,000 in a financial year.

I cannot see why members of parliament or ministers, if they serve a particular period of time, should have a life gold pass ad infinitum for themselves or for their widows and spouses. I think it is an anachronism that diminishes all of us. I have no problem with former prime ministers—I put them into a separate category—some of whom are obviously required to travel the country because of their former position. In my view, they should continue to be able to travel on life gold passes. But if I am elected at the next election, which will be my seventh term in this place, I will be entitled to travel till the day I die—25 trips a year at taxpayers’ expense. What for? What other employer is required to pay for continuing travel entitlements for their employees?

I can see an argument where ex-ministers might have to discharge their functions, so you make an allowance in relation to some of this. Or you might have a celebration within parliament where you want to bring former members together. But even then I have a query on that. I think it is an indulgence that we have been given that is not deserved. So, when we talk about the ministers of state and their salaries—salaries for the Prime Minister, for ministers and indeed for backbenchers—I have no problem in altering their salaries and at the same time getting rid of these lurks and perks and still bringing in savings for the members of the public.

I think it has all been one way. When I first came into parliament the printing entitlement for members of parliament was $25,000, I think. It is now $125,000 per year. There was a disallowed instrument in August 2003 where the government wanted to increase it to $150,000 and, indeed, roll over 45 per cent of it. In my view, it is unconscionable. We do not need that amount of money to communicate with our electorates. But let’s say we do. What I think is highway robbery and extremely unconscionable is that, if I seek re-election as a member of parliament, I can use that printing allowance for my re-election. We are talking about many millions of dollars here. In any given financial year the possible expenditure by members of the House alone is $18,875,000. My view is that at the very minimum that should not be able to be used for re-election purposes. Indeed, quite frankly, I think an amount of $50,000 would be reasonable. We also have a situation where our $28,000 postage allowance has now increased to 50c per elector, which takes me from about $27,000 to $42,000, and 100 per cent of that can be rolled over.

In my view, what we are doing is corrupting the system. We are giving such an advantage to sitting members of parliament. At the moment the government have that advantage. Eventually they will get tossed out. That time will come; we do not know when—the sooner the better for some of us. Then the advantage will be Labor’s. In the state of Queensland, where the opposition only has six out of 28 members, we are really going down the American path of entrenching incumbency unless a big swing is on.

The Ministers of State Act 1952 requires increases to the limits when they are appro-
There is nothing unreasonable in what the parliament is considering this evening, but overall what we have to do, if we are to maintain credibility, is look at these other entitlements that we get as members of parliament, ministers of state or whatever. I do not want to bag the VIP jet and the jet fleet. The thing I am filthy on is that when the government upgraded the fleet they purchased smaller jets, which meant that parliamentary committees could not use those services to go to remote and rural Australia for parliamentary committee inquiries. Basically, by the way those jets were ordered, they booted off backbenchers and backbench committees.

I think there is a real problem here, which is why there is such cynicism in the community. We have seen the debate over the AWB, where the government has used its majority in the Senate to decline to allow certain witnesses to be cross-examined by a parliamentary committee. The second reading amendment to this bill talks about not allowing ministerial standards and accountability to decline at the same time as ministerial salaries are increasing. They are linked. This is not a situation that pertains just to the Liberal Party. The concerns that I have outlined this evening could equally be applied to a Labor government because there is no doubt that in our period in office we changed entitlements to suit. I saw an increase in entitlements under the Labor government. I am not sitting here being Scrooge and saying, ‘No entitlements, no increases.’ I think there has to be a rationale and a justification because the separation of powers is important. It is important that our ministers, our politicians and our courts are held in high esteem.

We have one of the best democracies in the world, but we are not seeing the wood for the trees. Over a period of time we have allowed some entitlements and benefits to creep into the system, which has led to cynicism by ordinary members of the public. I am not critical of the salaries of members of parliament or ministers. They are not high by professional standards. If you were a successful barrister, doctor or businessman you could earn a lot more. But that is not necessarily of itself a justification for you to automatically get a salary commensurate with those professions.

The other thing that is interesting is that we do have different qualities in our approach to our jobs. There is no benchmark for what constitutes a good or a bad minister. I can remember during the days of the Labor government the former Attorney-General reminiscing with me that his job was to keep out of the news and to keep the cabinet on the rails in terms of what it was able to do, what it wanted to do and what it could properly do. That is why I think we are losing the battle at the moment of the operation of and ministers’ accountability during question time in the parliament.

I have seen a decline. I can remember vividly as if it were yesterday the current Prime Minister telling us that he was going to raise the standards. There was criticism of the former PM because he only wanted to come to parliament two days a week. In the mother parliament, Prime Minister’s question time is only on one or two days a week and for a limited period as well. It is not necessarily about the amount of time you spend in this chamber but about the quality of time you spend in this chamber. When I look at the replays of question time, I see a lack of accountability. The opposition’s conduct is not without blame either. Former Prime Minister Keating did not want parliamentary question time televised because he was frightened that it would turn the people in this place into a rabble—and it has. There is no accountability at question time. There is evasion and a whole series of things. I believe there should
be more power in the Speaker to deal with ministers, to bring them to account and to require them to answer questions. This place is not being taken seriously. It is used as an evasion by ministers. I commend the second reading amendment to the House. It is worthy of support.

Mr BRENDAN O’CONNOR (Gorton) (7.01 pm)—I rise to support the Ministers of State Amendment Bill 2005 and in particular the amendment moved by the member for Wills. In doing so, I will probably emphasise the amendment in my contribution. The fact is—and the member for Banks has clearly outlined the concerns I have in the main—that there has been a recent decline in the principles of ministerial accountability. There is no doubt that since the election of the Howard government in 1996 there has been a change of heart by the Prime Minister and the government about the way in which it, as an executive government, wishes to handle breaches of ministerial responsibility and accountability, and this has led to a deep cynicism and scepticism in the community about the role of people in this place. That is a great shame.

As the member for Banks indicated, there has been a whole host of ministers since Federation who have resigned from the ministry. As I understand it, the first resignation that occurred was in 1903 by Charles Kingston. He did so as a result of a difference of opinion with the executive government on policy. There have been a number of ministers who have resigned on fundamental policy grounds in moments of conscience. It occurred in the period when prescription was being proposed and throughout our relatively brief history as a nation. There is no doubt, if you look at some of the resignations from the executive government of ministers who believed they were in breach, say, in the 1970s and 1980s, you would find what we would regard as technical breaches of Westminster principles of ministerial responsibility and, therefore, cause for their resignations, but some of them pale into insignificance when compared with the failure of ministers in the Howard government to take responsibility for such breaches.

Mr Hunt interjecting—

Mr BRENDAN O’CONNOR—I guess the Parliamentary Secretary to the Minister for the Environment and Heritage wants to debate this issue. He can get up after me and defend his ministers. I am sure he will—probably starting with the Minister for Foreign Affairs. He can defend his ministers all he likes, but the reality is that there have been breaches. Since 1998 the Howard government has chosen to turn a blind eye to those breaches. Any of the members here who take any interest whatsoever in these matters would know that between 14 October 1996 and 26 September 1997—less than a 12-month period—there were no fewer than seven ministers who resigned from the Howard ministry for alleged improprieties in expense claims and travel expenditure. I think people generally know what that was about.

It must be difficult to come into this place and aspire to such high office and then have to make the decision, as a matter of honour and in abiding by long held principles, to tender your resignation. But in all of those cases—I will not name the particular ministers—they terminated their office and effectively offered their resignation to the Prime Minister in good faith, and I think they did so in good honour. They followed many others prior to the election of the 1996 government who also resigned for breaches of ministerial responsibility.

What seems to have happened since then is a blatant disregard for any accountability by ministers for such important events including, of course, the ‘children overboard’
affair. It seems now—at least since I was elected to this place in 2001 and some would argue from the commencement of the term previous to my election to this place—that there is a government that refuses to accept these principles. As I say, there was no doubt that significant matters arose from the ‘children overboard’ affair. I accept that the then Minister for Defence, Peter Reith, during the election campaign was no longer running for office—indeed, the parliamentary secretary at the table was his successor—but there is no doubt in my mind and, indeed, in the minds of the majority of Australians, I would say, that he acted dishonestly when he confirmed that they were photos—

Mr Hunt—Madam Deputy Speaker, on a point of order: I would ask that an accusation of dishonesty be withdrawn, even though it is against a former member of this House, because it is an allegation about his conduct whilst in the House.

The DEPUTY SPEAKER (Hon. BK Bishop)—Perhaps the member would like to rephrase his statement.

Mr BRENDAN O’CONNOR—I am happy to so that we can get on with the substance. Peter Reith, the former minister, asserted what we now know to be a lie. He asserted a fact when it was found to be untrue.

Mr Hunt—Madam Deputy Speaker, I rise on a point of order. It is simply moving from one formation to a worse and more accusatory formation. I would see the use of the word ‘lie’ as almost a direct defiance of your ruling.

The DEPUTY SPEAKER—Under standing order 89, I think it could be deemed to be offensive and I would ask the member to use parliamentary language.

Mr BRENDAN O’CONNOR—As I said, I am happy to withdraw the assertion on the basis that the alleged lie took place while the minister was in office. It is not surprising that the successor of Minister Reith wants to defend the indefensible by jumping to his feet in these matters. The obvious fact is that we know now that it was untrue that children were thrown overboard and the assertions made by the minister were found to be incorrect. Clearly, as a result of those assertions, the government gained politically. There was no accountability; there was no attempt by the government to account for its behaviour in that regard. There was no attempt by the Prime Minister to account for his repeat of the assertions that we now know were based on either incorrect assertions or dishonest statements made by whomever. The fact is that this government has probably, at least from the kids overboard on, allowed such matters to be perpetuated for political gain. I was very interested to read the editorial of the Australian today which correctly said:

But the Howard Government did have something to gain.

This is with respect to the kids overboard. The editorial also said:

Then defence minister Peter Reith and immigration minister Philip Ruddock knew an election-winner when they saw one and turned the “children overboard” affair into an anchor for the Government’s border protection policy. As evidence emerged that the incident never happened, ministers and minders all ducked and dived for cover. To their underlying disgrace, mandarins who should have served the public interest, not the Prime Minister’s electoral ambitions, helped them.

That is from the Australian newspaper today, which quite rightly points to the fact that the level of honesty, the level of accountability, had dropped from that moment on. The Australian concluded on this matter by saying:

The Government’s behaviour in the children overboard affair looks no less disgraceful now than it did back then—however the Prime Minister seeks to spin it.
I think the *Australian* newspaper is quite correct when, in today’s edition, it basically says the Prime Minister is more about spin than principle and more about providing an opportunity for him to gain electorally rather than being honest with the Australian people. I think it is important to note that this government has indeed used spin rather than honesty in its approach. I applaud the *Australian* newspaper for today making that point very clear when it suggests that the Howard government, indeed the Prime Minister himself, has been attempting to revise events of the ‘children overboard’ affair in his favour when we know that it was used dreadfully and was abused. People who found themselves in a very dangerous situation were vilified by this government in order for the government to gain electorally. I cannot imagine anyone wanting to associate themselves with the behaviour of Peter Reith, except for the parliamentary secretary at the table, and the fact is that the Australian got it right today by effectively saying that the government acted in a disgraceful manner when it came to its behaviour with the ‘children overboard’ affair.

I think it is important to note, though, that the first term of this government showed that the Prime Minister’s promise that there would be an adherence to ministerial responsibility was in fact the case. In less than 12 months we saw seven ministers resign as a result of breaches of ministerial responsibility, but from that time on, as the member for Banks indicated earlier, they have put up the shutters. They said: ‘We can’t really have the government bleed over matters as feeble as Westminster principles of ministerial accountability, so we’ll now deny when we make mistakes or, rather, we’ll blame somebody else for anything that occurs.’

We can see that with the Australian Wheat Board scandal. Here is a situation where it is clear from the evidence that the government was aware that kickbacks were being made to the Saddam Hussein regime, that $300 million worth of bribes were made under their watch—under the watch of the Minister for Trade and the Minister for Foreign Affairs and their department. The government chooses either to ignore that or to blame someone else. If we are to blame anyone, they suggest that we should blame the public servants.

Something as significant as the largest bribe in Australia’s history going to a regime such as that of Saddam Hussein is a matter of such historical significance that it beggars belief that this government does not accept any responsibility for its actions or its behaviour in this regard. That is why I think the amendment moved by the member for Wills is quite correct in condemning the government for allowing standards to decline at the same time that salaries for ministers are increasing. It is not just about accountability; it is about the way in which the public perceives this place and our role as their representatives in the House of Representatives. The government has shown no concern for that.

Since 1998 we have seen an absence of accountability by this government. Even when matters of such significance, such outrageous breaches of ministerial responsibility, do occur, we see no action taken by the Prime Minister to force his ministers to resign and no honour, in my view, for ministers if it would not cause them to tender their resignations in these cases. That decline leads to cynicism and scepticism amid the community, which brings dishonour on this place.

So, whilst we support the bill and support that an independent tribunal should of course measure the appropriate increase for minister’s salaries, the government would do well to consider their neglect of the long held
principles of the Westminster system in this place and to return to some level of honesty and honour and ensure that when something improper occurs, such as the $300 million bribes paid in the Australian Wheat Board scandal, they take some responsibility themselves. They should not try to pretend it was someone else and they should not by virtue of a limited terms of reference of a commission avoid proper scrutiny. They should effectively say, ‘We have done the wrong thing here,’ or, ‘Something has been done under our name that has shamed this nation, shamed this parliament and shamed this government, and we will attend to that. We will alone for those failures and we will, in the case of the minister or ministers responsible, expect their resignations.’ That has not happened and, as a result, there is a high level of cynicism towards this government. Until the Prime Minister changes his ways and his approach to ministerial responsibility it can only get worse.

Mr McMULLAN (Fraser) (7.19 pm)—I support the amendment moved by the member for Wills to the Ministers of State Amendment Bill 2005. In this debate I want to refer to a slightly different matter in addition to those matters raised by the member for Wills which I just heard so ably outlined by the member for Gorton. What I want to refer to more is the monumental double standard reflected in this bill whereby the government is applying one rule for itself and one rule for others in Australia. I do accept and support the thrust of the amendment of the member for Wills and the comments that have been made in support of it about the appalling standard of performance by many ministers. I want to, in endorsing those remarks, point to it in a slightly different context. It is the standard argument of this government, when it relates to the incomes of every other person who works for a living in this country, that salary increases without productivity increases are inflationary. The government applies that rule to everybody else but not to itself.

More particularly, I want to refer to the double standard of how this increase has been agreed. I agree with the process, but I think it is shameful that we here are almost the only people to whom this process now applies—that is, we get an independent tribunal to award a salary increase to us but ordinary Australian workers will no longer be eligible to have that happen to them. We have passed a law that says, ‘What occurs for all of us cannot apply to any of you’. We can have an increase awarded annually as determined to be fair by an independent tribunal—and I reinforce that I support the bill because, for ministers, that is the proper process—but nobody else in Australia can have that. Obviously it will be argued in response that this is a special case, and it is, but it is preposterous to suggest that it is the only special case in Australia. The Workplace Relations Act no longer allows special cases to apply to other Australians, only to us here and, in particular in this bill, to ministers, including to the minister who came in here and said that tribunals should not be allowed to set the wages of other Australians.

It is the most monumental double standard. I would use a stronger word, but I understand the precedents with regard to propriety in language in this place, so I will not say what is the obvious word. I will simply say that it is applying one standard to itself and a different standard to other people. It is a double standard because, if there is a special case that says you cannot expect ministers to have individual contracts based on the quality of their performance and their value to the agency for which they work and therefore we need to have a special tribunal, we could at least make an equally powerful special case for firefighters, for police officers and for emergency workers. We do not want
them negotiating individual contracts when the central element of what the community wants is for them to work together as a team. We do not want them engaging in the normal industrial relations hassle because we want them available, when the emergencies arise, to assist us. And we want them to be well paid because we want them to continue to provide the indispensable services they provide. But they do not constitute a special case under the Workplace Relations Act—only ministers of this government do.

Then we get to the other element of the double standard, which is that this is a collective agreement, common to every minister in exactly the same terms. Some of the terms, I suspect, determined by the tribunal—not covered by this act but determined by the tribunal—would actually not be allowable matters for any other worker to have in their agreement. But let us put that to one side. I suspect the minister would probably intervene to prevent agreements that would include some of these matters. But, dealing with the things that are explicitly covered by this bill, we are saying that it is okay for every member of parliament—and in relation to this bill every minister in this government—to have common terms and conditions to their employment so they all get paid exactly the same and get exactly the same conditions in every way but that it is not okay for ordinary Australian workers to have that. They have to front up to negotiate who is prepared to do the most for the least but that ministers do not have that rule applied to them. I do not think they should have, but I think we ought to have some decent application of common standards and principles.

I would like to suggest that maybe the ministers who thought that was such a terrific policy when they all sat around the cabinet table and voted for it should have to front up to the Prime Minister and ask, ‘Who’s prepared to do the most for the least?’ We all know they do not want to do that, because we all know that the member for Wentworth would outbid them all—he would probably pay to do the job, and not everybody could afford to compete with him. But that is what is being asked of every other Australian worker. They have to front up and negotiate how much they are prepared—

Mr Hunt—It’s a bit of a cheap comment, Bob.

Mr McMULLAN—No, it’s a very expensive comment.

Mr Hunt—No, it’s an easy one to make.

Mr McMULLAN—It is true. If I have offended the member for Wentworth—which I do not think I have—I certainly did not intend to do that. That was designed to be a light-hearted aside. If I have offended him, I apologise. I am sure I have not, but I certainly did not wish to offend the member for Wentworth, who is as entitled to be a minister as anyone else, notwithstanding his personal circumstances. Being poor or wealthy should not be a factor. I do not think I reflected on him, and I certainly did not intend to. I am sure he would not take it like that. But, if the parliamentary secretary thinks I may have, I will certainly make clear that I did not intend to.

The DEPUTY SPEAKER (Hon. BK Bishop)—I did not interpret it as a reflection on the minister; otherwise, I would have pulled you up.

Mr McMULLAN—I am sure you would have. I appreciate that. Anyway, if the parliamentary secretary thought that was a possible interpretation, I hasten to make it clear that that was not my intention. It was a light-hearted aside in what is otherwise a serious point—that every other Australian worker would have to front up to negotiate who was prepared to do the most for the least but that ministers do not have that rule applied to them. I do not think they should have, but I think we ought to have some decent application of common standards and principles. What we apply to ourselves we should apply
to others. I think that is a pretty good principle.

I had and retain what was around this place the unpopular view that the changes to the superannuation provisions for members of parliament were correct—not because they are without criticism, not because they are perfect but because they are applying to members of parliament the same principle that applies to other Australians. We should apply the same rules to ourselves that we seek to impose on others. That cannot be exactly the case because we do not do exactly the same thing as others. I think more than a decade ago there was an attempt to tie members’ salaries to a particular category in the Public Service so that the general principle that applied to others outside the parliament applied to us in the terms of a determination of income. That has not been able to be applied absolutely because of the changes in the way Public Service salaries have been set since that time—that common benchmark, to some extent, evaporated—but the general principle still broadly applies. And, in my view, the more it can apply, the better it is.

So I feel very strongly—not that there is anything wrong with the provisions of this bill; like all other members of the opposition I will vote for this bill, as it is a bill that reflects the fact that ministers’ salaries are determined by an independent tribunal, as they should be—and deplore the fact that the salaries of the ministers who have barefaced brought in the bill should be determined in common by an independent tribunal and they should get over the years decent sized pay rises as a result while at the same time low-paid workers should have access to such a tribunal or to such collective agreements.

I come back in conclusion—I did promise both the minister and the member for Grayndler that I would speak for only 10 minutes—that, in support of the amendment of the member for Wills, I sometimes do look across in amazement at the lack of performance of many on the frontbench. I think some of those people on the backbench on the government’s side must shake their heads and ask, ‘How is it that these people are there ahead of me?’

Mr Albanese—Poor Greg.

Mr McMULLAN—We have already had our little discussion and I do not want to go into that any further—nor with the parliamentary secretary who is about to take his place. But, over the years, the allocations have been extraordinary and, on the basis of performance based pay, some of them would have had to give their money back. I do not think the Prime Minister is quite as fond of the classics as some of our previous prime ministers, particularly Prime Minister Whitlam, who used to quote them somewhat more. But, if my recollection is correct, it was Sophocles who said:

To lay hands on victory is to hold a sweet possession. A reputation for justice can come later. For now, give yourself to shamelessness.

That is what we are seeing reflected in the collapse of ministerial standards. That is not what the Australian people expect from us as their representatives in a democracy. This bill, and the amendment to it, has facilitated an important discussion about ministerial standards. However, I want to emphasise a slightly different point while endorsing that discussion: the monumental double standard in the way our salaries are dealt with—in particular, the salaries of ministers, which we are dealing with today—compared to those of ordinary Australian workers in much less
powerful positions who have to fend for themselves without the benefit of collective agreements or tribunals. It is a bill that needs to pass but, as the bill relates to industrial relations, the principles underpinning it should be applied to all Australian workers and not just to ministers in the government.

Mr ALBANESE (Grayndler) (7.31 pm)—I am very pleased to support the amendment to the Ministers of State Amendment Bill 2005 moved by my colleague the member for Wills. It is appropriate that we in this House should be scrutinising the matters contained in this amendment at this particular time in history—the 10th anniversary of the election of the Howard government on 2 March 1996, the same day I was elected to this House—because, after 10 long years of the Howard government, there is arrogance and incompetence right across the show. We have the ongoing AWB saga. We have now had more than 21 documents raised by the opposition in question time. Day after day, ministers are being questioned about how they could sit by and allow $300 million to be paid in kickbacks from the AWB to the Saddam Hussein regime at the same time as Australia was preparing to go to war against that regime. An Australian government can make no more serious decision than to send our men and women to war. We made that decision based upon the lie that Iraq possessed weapons of mass destruction. We now know that we not only made that commitment on the basis of a lie but at the very same time were funding the regime to the tune of $300 million.

Four new cables were today raised in parliament and the Minister for Foreign Affairs conceded not only that he had been briefed on the documents but that he had read them himself. Those documents outlined very clearly, way back in January 2000, some three years before the war began, the clear concerns that existed about allegations of kickbacks to the Iraqi regime in contravention of UN sanctions against that regime. What was the government’s response? It was to ask the AWB, ‘Are you doing anything wrong?’ When the AWB said, ‘Oh, no,’ that was essentially it; that was the investigation of the government. That was symptomatic of this government’s approach to public policy.

When it comes to the Prime Minister’s code of conduct, we saw at the beginning of the process a number of ministers—John Herron, Jim Short, Brian Gibson, Geoff Prosser and others—having to fall on their swords and resign. Peter McGauran also had to resign, but he made a comeback. He is still a member of the National Party—for the time being. Over a period of time, the Prime Minister’s standards have disappeared. We have had scandals involving Michael Wooldridge, Wilson Tuckey and Richard Alston. We had travel rorts and we had balaclavas on the waterfront. We had Stan Howard and National Textiles. We had the telecard affair concerning Peter Reith and of course the children overboard affair.

I would ask all Australians to read David Marr and Marian Wilkinson’s book Dark Victory because that clearly outlines the symptomatic way in which the government was prepared not only to vilify and abuse asylum seekers but also to misuse the Department of Defence in a way which completely abrogated the independent way in which Defence should operate. Even as late as this week the Prime Minister was still attempting to say maybe they scuttled the boat. Of course that was not true. That was not found. It is quite clear that the whole basis of the children overboard affair was that once again this government was prepared to put its political interest above the national interest. That comes through the Department of the Environment and Heritage, which I have responsibility for as shadow minister, and that comes through on the subject of the
management of water issues, which I also have responsibility for. This government is so drunk with power that it silences dissent and stifles debate. It controls both houses of parliament so it thinks that we have a one-party state—accountability goes out the window.

A recent Four Corners program raised some very serious allegations that senior CSIRO scientists are being silenced on climate change issues. Australia’s top scientists are being gagged from saying we need greenhouse gas emission targets. They cannot even say that environmental refugees will be an issue when Pacific island nations flood because of climate change. That is contrary to specific advice given to the government by the department. On 5 January this year, when Labor released its policy on a Pacific climate change strategy, the response of the government was: ‘Let’s just hope it never happens’—quite contrary to the specific advice that it had been given. It is a tragedy that CSIRO scientists are operating in a climate of fear where anything that indicates that they disagree with current government policy is censored. Leading CSIRO scientist Dr Barrie Pittock was expressly told he could not talk about climate change mitigation in dealing with rising sea levels in the Pacific. One of the world’s leading climate change scientists, Dr Graeme Pearman, was gagged because he said we need greenhouse gas emission targets and we need carbon trading to help avoid dangerous climate change.

The Age reported last week, on 20 February, that the government had suppressed a key chapter of its landmark Climate change: risk and vulnerability report. The report has a number of chapters outlining the threats to Australia—the threat of a decrease in rainfall, the threat of increased extreme weather events and the threat to our iconic areas such as the Great Barrier Reef and Kakadu. Yet a chapter that was never published by the government was the chapter outlining the recommendations. So you had the problems revealed in the Climate change: risk and vulnerability report but you also had the suppression of the key chapter outlining priorities for action. This is an absolute scandal. The government and its ministers consistently fail to be accountable to the Australian people.

In terms of other environmental issues, it is quite clear that this government is prepared to have completely inconsistent positions when it comes to the independent advice that it has been given. If you want to see how ministerial standards and accountability have declined over the past decade, look at the contradictions that litter the government’s climate change policy. Take emissions trading, for example. On 14 February 2006 in Senate estimates, the Minister for the Environment and Heritage said this:

I think carbon trading schemes are part of the policy answer ... There is nothing radical about supporting trading schemes.

Yet today in question time in the Senate, when he got a dorothy dixer, he criticised emissions trading schemes. On 14 April 2005, he said:

... we don’t think it’s an effective way to reduce greenhouse gases. The costs imposed particularly on, let’s say, domestic power bills far outweigh the benefits of the emissions reduced.

Mr Robb—Hear, hear!

Mr ALBANESE—So where does the government stand on emissions trading? The Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs, who is at the table, says he agrees. I wonder if he agrees with his leader in waiting—and waiting and waiting and waiting—the member for Higgins. The Treasurer, who went across to the United States, spoke at a conference during G’day LA events on 18 January 2006.
Mr Murphy—What did he say?

Mr ALBANESE—He said this:

A market based solution will give the right signal to producers and to consumers. It will make clear the opportunity cost of using energy resources, thereby encouraging more and better investment in additional sources of supply and improving the efficiency with which they are used ...

Price signals in an efficient open market will promote new and more efficient investment ...

So the environment minister is in the Senate today saying price signals are bad but the Treasurer goes to LA, thinking that something called the internet does not exist, and says it is good. The Minister for Foreign Affairs said this on 31 July 2005:

We know that emissions can’t continue at their current rate. That’s going to require research, collaborative research. It’s also going to mean we’ll have to investigate price signals coming from energy ... By changing price signals, obviously that leads to changes in the investment patterns. You can get more investment into cleaner energy through changing pricing signals ...

The foreign minister was right on 31 July 2005, the Treasurer was right on 18 January 2006 and indeed the environment minister was right on 14 February 2006, but they say a different thing today on the issue of emissions trading and the need to get price signals. You can only have two forms of price signals: emissions trading or a carbon tax. Maybe they are in favour of a carbon tax rather than emissions trading, but the Labor Party is in favour of emissions trading. That would appear to me to be what some of the government, some of the time, are arguing should happen—but not just yet. That is one of the inconsistencies in government standards.

On 27 October 2005 the environment minister described climate change as 'a very serious threat to Australia', but at the same time his department was in court challenging the very existence of climate change. The environment minister has said on numerous occasions that global emissions need to be cut by at least 60 per cent by 2050, but the government’s climate change policies will—according to the report from ABARE on the Asia-Pacific climate pact—increase emissions by 70 to 80 per cent by 2050. That was the most optimistic assessment if all the proposals discussed at the Asia-Pacific climate pact meeting were adopted.

Let us look at the Great Barrier Reef. The government’s own Australian Greenhouse Office has for years highlighted the dramatic impact climate change will have on the Great Barrier Reef. The report to the government and to the minister, the Climate change risk and vulnerability report—the report which had the chapter about what to do about it suppressed by the government—said this:

The Reef itself is likely to suffer from coral bleaching events, which have long recovery times and flow on effects for the whole ecosystem. Climate model projections suggest that within 40 years water temperatures could be above the survival limit of corals.

The evidence is very clear. It has been given to the government, and yet what do government ministers say? On 9 February this year, the industry minister said this:

I think the Reef is in good shape. Those areas where it is being closely managed... it is probably in better shape than it has been for years.

The government is all over the shop when it comes to the fundamental challenges before it.

Let us look at the Kyoto protocol. On 19 December 1997, after the Howard government signed the Kyoto protocol, the Prime Minister described it as ‘a win for the environment, and a win for Australian jobs’. This is a government that now holds the Kyoto protocol in the same affection as the National Party hold Senator McGauran. On 16 Febru-
ary 2005, the environment minister said, ‘Quite frankly, the protocol is a dud.’ At the same time, when the Asia-Pacific climate pact meeting was being held, the government was saying that it complemented the Kyoto protocol and that the Kyoto protocol, as the international agreement, was important.

Let us look at the issue of whaling. On 22 June 2005, at the end of an International Whaling Commission meeting, the environment minister arrogantly exclaimed: Australia and pro-conservation nations have today won a massive victory for whale conservation. This is a fantastic outcome because it reinforces Australia’s determination to ensure all commercial and so-called ‘scientific’ whaling is consigned to the dustbin of history.

Tragically, the slaughter of whales has not been consigned to the dustbin of history. Night after night over the Christmas period, Australians were shocked by the images of whales being slaughtered in our territory, in territory declared by this government as part of the Australian Whale Sanctuary. And yet the Attorney-General, Philip Ruddock, intervened in a case involving the Humane Society International about whaling in the Australian Whale Sanctuary to say that it should not be successful because it would create a ‘diplomatic disagreement with Japan’.

Far from an end of whaling, we have actually seen a doubling of whaling since the minister declared that. There has been a doubling in the catch of minke whales to 935 and an expansion to include 50 fin whales. If it were not for Greenpeace’s actions, Australians would not know what occurred in the Australian Whale Sanctuary over the Christmas period, because this government was not interested in monitoring the activities there.

Now the environment minister is saying that Japan will probably have majority support at the next IWC meeting, which will be held in the Caribbean this year. The government has sat on its hands while Japan has stacked the IWC. He says that he wants to consign whaling to the dustbin of history, but he has not been willing to take the government of Japan and other whaling nations to international courts such as the International Tribunal for the Law of the Sea.

We also know that when it comes to heritage issues this is a government in which ministerial accountability has gone missing. On 18 December 2003, the Prime Minister stated that Anzac Cove would be the first listing on the National Heritage List. He said:

It seems to me ... entirely appropriate that the Anzac site at Gallipoli should represent the first nomination for inclusion on the National Heritage List. And, although it’s not on Australian territory, anyone who has visited the place will know that once you go there you feel it as Australian as the piece of land on which your home is built.

So what was actually going on while you had the Prime Minister and other ministers saying this? What was going on was that they were requesting road works to trash this sacred piece of our heritage. When I raised it in the parliament and asked questions of the Prime Minister, the Prime Minister’s response was that it was regrettable that it was even being raised. Although Anzac Cove is still not on the National Heritage List and in spite of the public outcry about what has occurred there, reports were given at Senate estimates that the area is continuing to be desecrated. (Time expired)

Mr NAIRN (Eden-Monaro—Special Minister of State) (7.51 pm)—In summing up this bill, could I thank the various people who contributed to the debate. I am sure any casual reader of *Hansard* might be a bit perplexed about what some of the matters, particularly those just raised by the member for Grayndler, have to do with the Ministers of
State Amendment Bill 2005. Obviously they have nothing to do with this bill. However, it is an appropriation bill, so members can speak on all sorts of matters—and clearly members have. I will not delay the parliament tonight in summing up. I will simply reiterate that this is a very minor amendment to a bill which allows for salaries to ministers, which is why the relevant act is called the Ministers of State Act. The bill is a one-line amendment to that act, replacing one dollar figure with another dollar figure. Really in summing up I should not say any more than that, other than to state that the government clearly does not accept the amendment moved by the member for Wills. The amendment clearly also has nothing to do with the bill. It is simply a political statement and it will not be supported by the government. I commend the bill to the House.

The DEPUTY SPEAKER (Mr Wilkie)—The original question was that this bill be now read a second time. To this the honourable member for Wills 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.

Question agreed to.

Original question agreed to.

Bill read a second time.

Message from the Governor-General recommending appropriation announced.

Third Reading

Mr NAIRN (Eden-Monaro—Special Minister of State) (7.54 pm)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

FUTURE FUND BILL 2005

Returned from the Senate

Message received from the Senate returning the bill without amendment or request.

TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 2006

Second Reading

Debate resumed from 16 February, on motion by Mr Ruddock:

That this bill be now read a second time.

Ms ROXON (Gellibrand) (7.54 pm)—I rise to speak on the Telecommunications (Interception) Amendment Bill 2006. The bill currently before us introduces a number of amendments to the Telecommunications (Interception) Act. The bill aims in part to implement the recommendations arising out of the independent Blunn review into the telecommunications interception regime. Largely, this bill is looking to update the existing act to take account of new technologies such as SMS, email and the like that were not envisaged when the original act was introduced and which have sat with an uncomfortable legal status since they came onto the market. An email or SMS, for instance, is not an instantaneous communication like a phone call. It is composed, stored and transmitted as a complete one-way message rather than existing in real time like a telephone call. This has created some problems for the existing system and the definitions that are in place.

Since 2002 the parliament has struggled four times with the issue of stored communications. The contentious provisions in the Telecommunications Interception Legislation Amendment Bill 2002 were withdrawn after the Senate Legal and Constitutional Legislation Committee recommended against their inclusion. In 2004 the contentious provisions of the 2002 bill made a return. During the
committee hearings on this bill it became apparent that the Australian Federal Police were using warrants under section 3L of the Crimes Act to intercept stored communications material from internet service providers. But such was the difference of opinion between the AFP and the Attorney-General’s Department on this matter that the committee recommended the reforms to the telecommunications regime be deferred until there was some unified position from the government.

The final result was that the committee recommended that an independent review of the act occur and imposed a sunset clause on the AFP’s use of general warrants to access such stored communications. The original 2004 bill was thus not pursued, but subsequently the government came back to the parliament with another bill that implemented the committee’s recommendation. Twelve months turned out to be not long enough for Anthony Blunn to conduct his review and for the government to finalise the subsequent legislation. A further six-month extension was granted by the Telecommunications (Interception) Amendment (Stored Communications and Other Measures) Bill 2005, and that extension expires in June of this year. Hence the debate today and some concern to get these changes through the parliament before that time expires.

From Labor’s point of view, the present situation of dealing with such communications is unsatisfactory. Email and SMS messages are available to be intercepted by the general Crimes Act warrants under section 3L. Labor strongly believes in tougher safeguards than are presently available under this regime. As it stands, we have a stopgap measure that will fall over when the clause expires in mid-June, and clearly the parliament does have to act decisively on this issue before that time. The bill before us today seeks to implement a number of recommendations, but not all of the recommendations, of the Blunn review. Because this bill does not represent the total sum of reform recommended by Mr Blunn, we will no doubt be revisiting this issue again in the not too distant future. What is before us today is perhaps as much as the Attorney-General could put together given the deadline to have the bill passed, assented to and proclaimed. In any case, Blunn’s main findings were that:

- the protection of privacy should continue to be a fundamental consideration in, and the starting point for, any legislation providing access to telecommunications for security and law enforcement purposes …

Further:

- access to telecommunications data is, and for the foreseeable future will remain, fundamental to effective security and law enforcement …

This is the prime starting point that Labor also adopts when considering this bill: the balancing of privacy considerations and the need for appropriate access for law enforcement agencies. Significantly, the bill contains provisions to set up a new warrants regime for stored communications. That is a great improvement on the current situation and Labor will be looking during the committee stage to see if it can be improved even further. The bill will also implement equipment based interception. That is a practical and sensible measure which Labor supports.

Perhaps most problematic in terms of the media comment and some of the public concerns that have been raised to date is the concept of B-party intercepts—that is, an intercept of an innocent party who is in regular communication with a person of interest. B-party intercepts are lawful, at least to some extent, now. Their validity has been established in the full court of the Federal Court in a decision of Flanagan v the Commissioner of the Federal Police. Although interpretations of this case vary, it seems that the reasoning has not been sufficiently clear for the
Federal Police and the government to feel that they can confidently rely on this in pursuing B-party intercepts further. In any case, we would argue that the restrictions that exist, even if this case is relied upon, do not have the benefit of the protections. Clearly the government agree, given that they have proposed a statutory regime that puts in place some protections for the use of such B-party intercepts.

Mr Blunn, in his independent review, did make comments about B-party communications and recommended that 'the Interception Act be amended to make it clear that B-party services may be intercepted in limited and controlled circumstances'. That is what this bill does. We can go through in some detail the controlled circumstances that it refers to. It does make it clear that this mechanism should be used only as a last resort by law enforcement agencies. It is not to be used just as a matter of course. These are important principles and protections that Labor believe should be supported. We will pursue any other detailed protections that are required in the Senate committee. If we propose any amendments, as may be possible in the other place when the debate takes place, they will have the benefit of the Senate committee's review.

Although B-party interceptions have not been used since the case of Flanagan in 1995, it seems that this has been a matter of policy rather than of law. Should the government of the day change that policy, it would mean that we would be back to an open slather situation. As a responsible party, Labor want to grasp the opportunity to limit and carefully control the use of B-party intercepts. We will ensure, as I have said, that this issue is carefully examined during the committee stage and that, if Labor are not satisfied with the safeguards, we will move amendments to ensure that B-party intercepts are used safely, responsibly and with the appropriate privacy controls and safeguards. That is our promise to the community.

The bill also contains technical measures, which are set out in schedules 4 to 6. These measures would amalgamate two different class of offences and remove a redundant accountability provision. Also included are some housekeeping measures that would ensure that the act is up to date. Labor generally support the bill because of its strong emphasis on protecting privacy and the important practical assistance it will give to our law enforcement agents. I think Labor have already referred this bill to the Senate Legal and Constitutional Committee for its consideration so that there is a chance to discuss concerns raised within the debate in this House and within the broader community.

Let me go through some of the detail of the bill. Schedule 1 deals with stored communications. The first schedule in the bill seeks to define stored communications pursuant to recommendations that were made by the Blunn committee. Mr Blunn made a number of findings on this matter. Firstly, he recommended that the distinction between real-time and stored communications be maintained. However, despite calling for the retention of this distinction, the report also found that the act as it is presently structured was not an appropriate vehicle for accessing communications other than real-time communications and that the provisions governing access to stored communications were inadequate and inappropriate. Labor certainly agrees with this assessment. Therefore, the review recommended that access to stored communications continue to be authorised by search warrants but that those warrants be required to meet minimum prescribed standards.

The bill before us today sets up the new warrants regime for intercepting those stored communications. The bill will remove the
provisions from a general search warrant and implement tougher provisions similar to those that are current for real-time communications. In effect, the bill will toughen privacy protections, making it harder to get a warrant. This schedule also introduces definitions for stored communications and a regime for access to those stored communications. This includes a general prohibition on access to stored communications; the regime for access to stored communications by law enforcement agencies; the process and regime for issuing, executing and revoking stored communications warrants; provision of technical assistance to a law enforcement agency by staff of a telecommunications carrier; a regime of evidentiary certificates by carriers and law enforcement agencies; an offence to criminalise unauthorised use or communication of accessed information or stored warrant information; a regime of permitted dealings with accessed information; admissibility of evidence; destruction of records unlikely to be used for the purposes of investigation; the regime for keeping of records, including access to that regime by the Ombudsman; the regime for reporting to the minister and the parliament; and civil remedies.

The new regime to be brought in by the bill generally acts to apply the same protections afforded to telecommunications to stored communications. The first schedule of the bill acts to clarify the status of access to stored communications and, at the same time, toughens the privacy provisions required to obtain one.

Schedule 2 deals with B-party intercepts. This schedule clarifies the position of the act on B-party intercepts—an issue that I have already touched upon tonight. A B-party intercept occurs when a law enforcement agency is monitoring person A for criminal activity. Say that person A is in regular contact with another party, person B, who is not the subject of an investigation. Under the present law, it is permissible to obtain a warrant to subject the second person, person B, to an interception in order to obtain information regarding person A.

I have gone through the contentiousness of whether people agree on what the current law is or is not, but I think it is worth flagging that there is some authority for this. Certainly my colleague in the Senate, on whose behalf I am appearing today, is keen to impress upon the House that B-party provisions in this section are not new powers, nor do they expand existing powers, as has been reported in the media. B-party intercept powers already exist and have been upheld by the Federal Court, even if there is some argument over the extent and basis for that decision. It is presently policy not to use those powers; nevertheless, until this case is overturned, they do exist. The bill before us today would, as I have said, impose greater controls than currently exist and would certainly clarify the situation for both the public and law enforcement agencies. Thus, it is an improvement on the current situation.

I turn briefly to the case of Flanagan v the Australian Federal Police because it seems to contain the key precedent relating to telecommunications interception. It was a 1996 Federal Court case. In that case there was a telecommunications interception warrant aimed at gathering information regarding a Mr Flanagan—or the A-party—but the subscriber to the service was his wife. So, in effect, she was the subject of the monitoring and was the B-party. In the ensuing court case, they alleged that the issued warrant was invalid because it had gone beyond the Telecommunications (Interception) Act as it then stood. However, the Federal Court rejected that argument, stating:

Until a communication to or from a service has been intercepted and recorded, it is impossible to know whether it would be likely to assist in an
investigation, or even to identify the parties to the communication. If warrants were confined to authorising the interception of communications to which the particular person could be identified at the outset as a party, they would lose much of their efficacy. This cannot have been intended.

The court further stated:

There is no requirement that the prescribed offence be one in which the particular person contemplated by s 46(1) is involved.

So all communications made to and from the telecommunication service—even though the subscriber was the B-party, Mrs Flanagan—were held to be valid. I repeat: the idea that B-party intercepts are totally new is incorrect. However, the new regime does define and limit the applicability of B-party intercepts. B-party intercepts will only be available in circumstances involving investigations of an offence punishable by at least seven years imprisonment. Items 8 and 9 further restrict the use of these warrants to circumstances in which the applying agency has satisfied the issuing authority that all other methods of identifying the telecommunications used have been exhausted and that an interception would not otherwise be possible.

So the new regime covering B-party intercepts, rather than being an unjustified extension of existing powers, or a creation of entirely new powers—as some people have alleged—is and can be regarded as a limitation and clarification of existing powers. It can be seen to restrict, rather than expand, the B-party intercept powers. Nevertheless, as an aside, by spelling this out in the legislation, it must be acknowledged that it is possible that now the AFP may make more use of these powers, once they have been clarified in the legislation.

I think it is important that a Senate committee investigate these issues further to make an assessment on whether the extent of the provisions is necessary and appropriate and is balanced with the sorts of protections that both the government and the Labor Party have said they are keen to see put in place. I have a lot of confidence in the Senate committee process as being a good way to flesh out some of these highly technical issues, particularly given that the committee has already dealt with the Telecommunications Act and some proposals that cover these areas on several occasions. It seems that there is a fair amount of expertise that resides in that committee, and we look forward to the recommendations that it might make.

Schedule 3 of the bill imposes changes in equipment based interception. This is a technical change to allow the law enforcement agencies to apply for warrants for communications from a specific device rather than warrants for communications from a person. What happens—as I think has been mentioned in the explanatory memorandum—is that a person of interest can buy a mobile phone and potentially use hundreds of different SIM cards at low or no cost which they then switch through their phone. Naturally, this makes it very difficult for a law enforcement agency to identify and intercept communications belonging to that person based on a SIM card.

The amended changes would, as I have mentioned before, allow for law enforcement agencies to target the phone and to intercept communications arising out of that phone or other terminal device. This amendment would serve to make it less practical and less economical for a person of interest to evade interception through their exploitation of technology and would therefore, we hope, enhance law enforcement chances of interception.

The three schedules that I have just mentioned are the main amendments to the act contained in this bill. There are another three schedules in the bill that are largely designed
to enact technical changes to the bill. Schedule 4 deals with class 1 and class 2 offences and removes the distinction between those classes. Previously, the act divided offences into these two classes and required that only class 2 offences be subject to privacy considerations by the issuing authority.

However, the Blunn review questioned this distinction, finding that it produced no meaningful difference in outcomes and recommended their removal. The current bill accomplishes this, abolishing the two definitions and placing both of them under the new definition of ‘serious offences’. Both types of offences are now subject to privacy considerations.

Again, essentially, this is an enhancement of the privacy provisions of the bill. Under the previous regime, only class 2 offences were subject to those considerations. Under this regime, all requests for warrants of telecommunications interceptions will be subject to these considerations. Again, Labor will support these changes, subject to any recommendations that arise out of the committee process.

Schedule 5 operates to remove the Telecommunications Interception Remote Authority Connection, or TIRAC, from the act. The Blunn review found that the TIRAC regime was costly but had a very low rate of detecting warrant errors. The review recommended that the powers of TIRAC be moved to the Attorney-General’s Department. For the benefit of the House, I quote from the explanatory memorandum:

TIRAC is a historical electronic accountability mechanism which requires each interception agency to lodge its interception warrants with the AFP. The effect of this function is that the warrants do not take effect until the AFP receives the warrant and notifies the Managing Director of the carrier of the issue of the warrant. TIRAC’s utility has been exhausted by technological developments, and it is therefore proposed that it be removed from the Act.

The proposed amendments will continue to require all agencies to maintain comprehensive records as part of the interception regime, however, interception agencies will no longer be required to notify the AFP of the issue of the warrant before it takes effect.

Essentially, these amendments act to move a number of the functions of TIRAC to the Attorney-General’s Department and to remove others from the act. As noted above, TIRAC has, since its inception, been superseded by technological developments, and it seems that the proposed change is appropriate.

Finally, schedule 6 of the bill introduces a number of technical amendments to the act. These are largely housekeeping measures designed to tidy up the act and ensure that it is up to date. These amendments include extending the powers available to the Victorian Office of Police Integrity under the act to allow them to disclose intercepted information in limited circumstances relating to the investigation of officers under various anti-corruption statutes. The amendments also include a number of other minor consequential amendments and corrections of drafting errors.

The bill before us is a necessary update of the technically antiquated legislation that currently covers telecommunications interceptions. Significantly, the bill will provide a new regime for the interception of stored communications, affording them the same protections that are currently afforded for real-time communications and strengthening the privacy provisions of the regime. Secondly, the bill will clarify the position of B-party intercepts. This, rather than adding a new power, will actually serve to limit the scope of these intercepts. They will only be allowed in cases of severe offences and in cases where all other options have been ex-
hausted. This enhances rather than diminishes the current privacy protections afforded under the warrant.

The bill also introduces the ability for law enforcement agencies to apply for equipment based warrants. This is a necessary update to an act which was written at a time when landline based telephones were the primary means of telecommunications. It will provide an important tool against efforts to frustrate law enforcement through the use of newly developed technology loopholes in the present regime. Finally, the bill contains a number of housekeeping measures. It cleans up some functions that the AFP exercises, moving them over to the Attorney-General’s Department, and it eliminates an obsolete distinction between two classes of offences.

Through these measures, the overall thrust of the bill is to provide a necessary update to ensure that law enforcement agencies, when they are using the telecommunications interception regime, are able to better balance privacy concerns with the needs of those law enforcement agencies to access information, and also to update the regime to account for new technologies that were not developed or envisaged at the time of the original act. I conclude my remarks by reiterating Labor’s intention to consider whether the bill can be improved further through the scrutiny of the Senate committee process and through possible amendments in the Senate. With those remarks, I commend the bill to the House.

Mr CIOBO (Moncrieff) (8.16 pm)—I am pleased to rise to speak this evening on the Telecommunications (Interception) Amendment Bill 2006. This bill implements a number of recommendations of the Report of the review of the regulation of access to communications under the Telecommunications (Interception) Act 1979 that was conducted by Tony Blunn, commonly referred to as the Blunn report. I am pleased to speak to this piece of legislation because it does go some way towards ensuring that there is an adequate framework in place to assist our law enforcement agencies to deal with those various issues and investigations that they must undertake—those types of investigations which help to prevent criminal activity and help to crack down on criminal activity—as well as ensuring that there is safety in the community: the kind of safety that I know residents in my electorate of Moncrieff are looking for and expect the government to deliver to them.

This bill is the subject of debate in this chamber, and I am pleased to hear, in the main, positive comments coming from the Australian Labor Party about the three principal limbs that I will be discussing tonight—that is, the stored communications warrant regime, B-party interception and equipment based interception. On these three fronts, I welcome the broad level of support that the Australian Labor Party has indicated that it will be providing. I note, of course, that this support is in some way laden with a caveat, coming from the fact that the shadow minister indicated that the Australian Labor Party would be looking more closely at this in the committee stage when the bill goes to the other place. Notwithstanding that once again there seems to be some equivocation about whether or not to support the legislation, to the extent that that support is forthcoming, I certainly welcome it.

These amendments, as I said, go some way towards ensuring that there is in place an appropriate and adequate framework that will apply to the various agencies that need to conduct their activities under this act. Dealing with the Blunn report recommendations, which outline the need for overarching legislation regulating access to all forms of electronic communication, this bill establishes two of the three limbs that were proposed to be part of that overarching legisla-
tion, dealing with access to stored communications and an amended interception regime that incorporates, in effect, the majority of the existing Telecommunications (Interception) Act 1979. The third limb is regulating access to telecommunications data, and the government expect, as we have outlined, to be making further amendments in due course.

With respect to the stored communications warrant regime, the Telecommunications (Interception) Amendment (Stored Communications) Act 2004 does allow stored communications such as email and SMS that have been delivered to the recipient to be accessed without a telecommunications interception warrant. Those amendments, as the government foreshadowed and outlined, were intended as an interim measure pending the Blunn review. Accordingly, they sunset in June this year, as the shadow minister indicated.

Schedule 1 of this bill creates a new stored communications regime that is centred on a prohibition on access to stored communications held by a telecommunications carrier, and a stored communications warrant regime. A stored communications warrant will be available to enforcement agencies that are investigating an offence punishable by a maximum period of imprisonment of at least three years or an equivalent pecuniary penalty. The threshold covers a broad range of serious offences and is the same as that outlined in the Surveillance Devices Act 2004. Once accessed, stored communications can only be used or communicated for a purpose connected with the investigation of an offence that is punishable by a maximum period of imprisonment of one year or the equivalent pecuniary penalty.

The regime that is outlined in this bill will strictly regulate the use, communication and recording of information that is obtained by various agencies in accessing stored communications. This is consistent with the current use and communication of intercepted communications, so in that regard this bill simply provides an extension of the existing framework. Information obtained by accessing stored communications, as I outlined, will also be able to be used, but only where there is an offence that is punishable by a maximum period of imprisonment of one year or a pecuniary penalty of at least 60 penalty units.

The more controversial aspect of this bill is, of course, that dealing with B-party warrants. We have seen in recent times a great deal of media scrutiny and indeed a significant amount of media comment and stakeholder comment about B-party warrants. As the shadow minister outlined, B-party warrants are not entirely new. There has been some degree of their use in regard to activities by various agencies.

I notice the member for La Trobe is in the chamber. He certainly has a great deal of experience in and practical application of the various requirements of enforcement agencies to adequately fight against those who would seek to subvert our way of life. I will certainly welcome the comments of the member for La Trobe, who I know is a passionate advocate of these types of laws and recognises that we need to provide adequate tools for law enforcement agencies to function appropriately and provide adequate safeguards to the community at large.

The B-party interception framework as outlined in this bill relates to the interception of communications of a person who may not be involved in the commission of an offence but who will communicate with a person involved in the commission of the offence. Such a situation commonly arises, I am informed, in undercover operations where it may be necessary to intercept the service of...
an undercover police officer. Of course, it is recognised that generally there would be consent involved, but irrespective of that it is appropriate to have a B-party interception regime in place. The amendments provide that, where an interception agency satisfies an issuing authority that all practicable methods of identifying a telecommunications service used by the person of interest have been exhausted or that it is not possible to intercept the service used by the person of interest, the agency may intercept the telecommunications service used by another person.

This amendment has been the subject of much media debate and concern by certain members of the community. Indeed, I harboured some concerns when this issue was first raised with me. However, on balance, when one considers the necessity for agencies to utilise various legislative tools in order to focus their efforts on criminals engaged in criminal activity, it seems to me appropriate that, with adequate safeguards that set in place the necessary limits that must be met by enforcement agencies, a B-party interception warrant need not be considered an overly intrusive incursion into one’s privacy. Granted, prima facie it does appear that innocent third parties can have their telecommunications intercepted. In reality, this would only occur—as section 9(3a) clearly provides—when the Attorney-General has ensured that there has been an exhaustion of all other practicable methods of interception of the telecommunications of the person in whom law enforcement agencies are interested.

Given that the threshold is that agencies have used and exhausted all other practicable methods, the question then becomes one of: do we as a government sit back and allow those who are technologically savvy or criminals engaged in criminal enterprise who have found some other way to avoid detection, scrutiny or interception by various government agencies to continue their activities outside the bounds of the law? On balance, given the appropriate threshold is in place, which is that all other practicable methods have been exhausted, I am of the view that it is appropriate to allow B-party interception warrants. Furthermore, given that at common law there already exists the ability for this to occur in limited circumstances, it seems prudent and wise for the government to legislate for a framework that very explicitly outlines the criteria that must be taken into account with respect to the issuing of a B-party interception warrant. More importantly, there are the various factors that the Attorney-General and, indeed, the courts must satisfy themselves of before a B-party interception warrant could be authorised.

For example, the issuing authority must also have regard to the following additional factors: the gravity or seriousness of the offences being investigated; how much the privacy of any person would be likely to be interfered with through the interception; how much the intercepted information would be likely to assist with the investigation by the agency of the offence; how much the use of such methods would be likely to assist in the investigation by the agency of the offence; to what extent alternative methods of investigating the offence have been used by, or are available to, the agency; and how much the use of such methods would be likely to prejudice the investigation by the agency of the offence.

Taking these issues into account, I am satisfied that a B-party warrant in the regime that this bill seeks to put in place would contain appropriate safeguards to one’s privacy but, at the same time, remove the shackles that currently exist due to agencies not having the full scope of powers to give them sufficient opportunity to intercept the tele-
communications of those involved in criminal enterprise.

The third, and perhaps less controversial, aspect of the bill is equipment based interception. This is relatively straightforward. It deals with those instances where the various agencies—the Federal Police and ASIO, for example—need to intercept equipment. As the shadow minister has detailed, you might have a situation where someone engaged in criminal or terrorist activity is using a number of different SIM cards on a mobile phone to try to evade interception. This bill would enable interception of the actual equipment. So, although various SIM cards might be used in the equipment, the piece of equipment itself could be intercepted, thereby ensuring that agencies with an interest in that person have the ability, where the criteria have been satisfied for the equipment based inception warrant, to intercept that equipment.

There are a number of housekeeping matters in the bill which I do not intend to touch upon as the Attorney-General and the shadow minister have done so already. I would summarise, though, by saying that concerns have been raised that there is 26 times more chance of someone having their telephone intercepted in Australia than, for example, in the United States. This kind of comparison is completely unrealistic and completely wrong. The United States differs to Australia in a number of significant ways. Direct comparisons between Australian and US statistics are therefore entirely misleading.

Statistics from the United States published on interceptions do not include those interceptions that are considered too sensitive to be reported. That is the first point of difference with the Australian system. Investigators in Australia do not have the discretion to not report certain interceptions regardless of the level of sensitivity surrounding them. In addition, United States law allows one warrant to authorise the interception of services used by a number of people: for example, when it becomes possible to identify criminal associates of the original suspect. Again, this stands in stark contrast to the situation in Australia in which a warrant must be authorised for the telecommunications service or services of only one person who is named in that particular warrant. That is another significant difference between the collection and collation of statistics in Australia and in the United States when it comes to interception.

Although there will be those who will run the scare campaign in the community that the passage of this bill is effectively signing away the right to privacy and is further fuel on the fire that allows government agencies to intercept telecommunications at will, those assertions are incorrect. The reality is that this bill puts in place a framework that is able to be used by both law enforcement agencies and the public more broadly. It establishes a framework that clearly outlines the various threshold requirements as to when a warrant is able to be issued and the various points that must be considered. With respect to B-party warrants, this bill ensures that there are adequate safeguards. Further, it moves from common law to statutory law a point of view that specifies that all other practical methods must have been exhausted. I welcome these reforms. I think it is important that there be in place a strong framework which enables the government and its agencies to effectively operate to ensure the safety and security of the community at large and at the same time affords to our various investigative agencies the kinds of powers that they need to do their job appropriately but without sacrificing those liberties which so many of us hold dear. I commend the bill to the House and I look forward to the Aus-
Australian Labor Party supporting this bill in its current form as it moves through the Senate and its various committee stages.

Mr Kerr (Denison) (8.32 pm)—There are significant elements of the Telecommunications (Interception) Amendment Bill 2006 to be welcomed, but I think it is important for me to set out some of the concerns I have and am certain are shared more broadly throughout many sectors of the community and on both sides of this House with respect to the detail. There is no doubt that the motivation for this legislation is well based and many of the initiatives will clarify the entitlement of law enforcement to secure information that is required for proper law enforcement purposes. In making those circumstances transparent and setting out clearly the manner in which interceptions can be undertaken in respect of a number of areas which presently lack sufficient clarity, the intention of the minister, the government and the opposition, in indicating its support for the general approach, is to be welcomed. But I do want to draw attention to some of the areas which require the further consideration of this parliament. I note that this legislation will be subject to further review by the Senate Legal and Constitutional Legislation Committee, and the remarks I make now are in the context that I hope the issues I raise are taken into account by those participating, and I intend to forward the text of these remarks to that committee to be taken into account in their deliberations.

The first issue I want to turn to by way of expressing concern goes to the question of stored communications. It is certainly true that one of the issues that has confronted law enforcement is how to effectively deal with communications which are carried in an electronic form that are not the traditional voice messages carried over phone lines. The telecommunications interception regime that was put in place in 1979 envisaged handsets connected by copper wire hardlines and set out a regime at first limited to a very narrow range of offences and available only to Commonwealth law enforcement agencies but subsequently extended to a much wider range of offences and permitted to be utilised by state and territory law enforcement agencies and a range of commissions charged with the responsibility for anticorruption matters.

These extensions have each been deliberated upon and considered, but one of the technological innovations that has occurred of course is the growing use of electronic transmissions to carry not only voice messages but also text messages and stored communications. We all use mobile phones whereby we receive text messages transmitted to us by friends, colleagues and acquaintances. We often use hand-held devices—BlackBerries and the like—to communicate not only short messages but also messages which include attachments and to file and store large amounts of documentation.

My concern is that we are not putting in place the same strict regime for accessing this so-called stored communication as we do for regulating the interception of telecommunications that are voice messages over hardlines. The tests we have enacted to permit access to interception of voice transmissions remain very high. The regime is not one which, in my view, is capable of being easily subverted by those who would be frivolous about seeking to utilise such interception methods. But the proposed test in respect of stored communications is much lower. I am troubled by the reasoning behind the proposition that my privacy is much less intruded upon if the message I receive on my mobile phone or a message that is transferred through a BlackBerry and an email attachment is intercepted covertly, unknown to me. Why should the test be lower in those cir-
circumstances than it would be for an interception of a voice transmission?

I think the argument is put that a lower test is appropriate because it is more in the nature of a search warrant that could be issued under the various search warrants legislation for hard copy material—that is, the test ought be more analogous to the kind of test that would apply were, for example, a search to be authorised of a person’s office or home for materials that were suspected of being evidence in relation to a possible crime. The problem with that analogy is that, in the large majority of—almost all—instances where search warrants are pursued, the person against whom the search warrant is issued comes to learn of its issue and can contest the issue of the warrant on the basis that it was issued improperly. In relation to the materials that have been the subject of seizure, they can make claims of legal professional privilege or, in the instance of members of parliament, parliamentary privilege. There is a range of other circumstances in which people can properly raise those objections to an overwide use of those powers.

But, in the case of the interception of stored communications, it is much in the nature of a telephone interception: you do not come to know of it. So it is a covert interception. As we move more and more of our business from paper based to electronic storage of information, what we are effectively doing is permitting, at a much lower test, covert interception of large amounts of stored materials. It is a test which is not examinable in the same way as ordinary search warrants are and with a lesser threshold to meet than we insist upon with voice communication. I think this is quite troubling and I suggest that the Senate have a look at this. Two possible solutions commend themselves. One would be to have the same high-level test for the seizures of covertly obtained materials where a warrant for stored communications is sought; the other would be to require, where the lesser test applies, the person to be notified of the collection as one would normally find out about the implementation of the search warrant so that the ordinary claims for privilege and the various other entitlements to challenge the issue of the warrant, the legality of it and the grounds for it can be pursued.

It seems to me that we are introducing effectively a much more comprehensive regime to permit access to substantial amounts of electronically stored material, which is now the most common form of commerce, in a way which does not give the traditional safeguards to those against whom the decision was made. I might say in respect of one matter of most moment to members of this parliament that it would bypass the arrangements that have been entered into between the Speaker and the President of the Senate and the Australian Federal Police regarding seizures of materials relating to parliamentarians’ conduct of their business in this House. Presently, there is an arrangement in relation to the exercise of a search warrant which enables members to make properly founded claims for privilege, to have those claims examined and to have the warrant dealt with in a manner which accommodates those entitlements. That, of course, could not occur if the member does not know that they have been the subject of an interception. And, in a like manner, the entitlements the ordinary citizen has to make: claims of legal professional privilege or to challenge the evidential and legal basis for the issue of a warrant, to claim that it has been issued in circumstances where it is impermissible to issue it, is not available simply because they do not know that the seizure has occurred. I put these arguments forward on the basis of long experience as to how these matters do operate, having served myself for three years as Minister for Justice responsible for the
Australian Federal Police in this parliament and previously having had responsibility for arguing a number of cases before superior courts about the validity of warrants issued in relation to searches and seizures.

The second point that I turn to is a point that has been given a greater degree of attention than that which I have just discussed, and that is the so-called B-party warrants. These are extremely contentious because, for the first time, our law will permit an issuing authority to authorise the interception not of the phone service used by a person against whom a suspicion is held but of any innocent third party against whom no such grounds are established in order that they might incidentally collect through that means the communications of the person against whom the suspicion is held. I have given earnest thought to the justification for this, and reluctantly I accept that there is a proper basis for permitting the use of B-party warrants but would like to see far greater safeguards than are presently encompassed in the legislation. Why have I conceded that it may be legitimate to use B-party warrants? I might say that the euphemism of a B-party warrant is something that I find a little offensive. They should be called ‘innocent third party warrants’ or ‘third party warrants’ because I think that by the use of such language we really do not come to the gravamen of the point. But it is a truth that, as we have gone now over 25 years since first authorising telephonic interception, not only has law enforcement come to rely on them and use them more effectively but so too have those against whom they are sought and directed become somewhat smarter in their capacity to hide their communications from the authorities.

I do not think it is giving away any great law enforcement secrets to mention the fact that there are people out there, ‘smarties’, who are trying to switch hand-services and chips on a regular basis so that it is difficult to find out what service they are using and to follow and trace the calls they are making. If that is a practical problem in tracing and identifying the telecommunications of persons against whom warrants would lawfully be issued, I think it is reasonable for this parliament to say: ‘In those circumstances we will permit the collection. If we can’t get at this through ordinary means, we will permit law enforcement to seek authority to tap the phones, to intercept the communications, of persons we believe they are in communication with—third parties.’ It may be lawyers, it may be accountants, it may be family, it may be friends, it may be people with whom they have business relations of an innocent kind or it may be parliamentarians whose constituents are suspected of particular conduct. With this means of tracing these innocent third parties, intercepting the calls of the innocent third parties, we can find out what the target is seeking to do, identify the phone services they are using, where they reside, what they are doing and follow their conduct, and, hopefully, obtain evidence that may be material to either preventing crime or prosecuting it.

The problem I see, however, is that there is a very grave risk that, in permitting this, we are going to open up a whole range of collateral material to intrusion, investigation and collection that we do not intend to bring into the net. It seems to me that if the government’s purpose is not to expand the right of law enforcement to seek warrants against innocent third parties per se so that their communications are not only with the suspected wrongdoer but with other parties—let us assume party A is a suspected wrongdoer and party B is known to have some contact with that person but against whom there is no suspicion of wrongdoing; you could not normally issue a warrant against party B—this legislation will now permit that but will
bring into the net all the communications between parties B, C, D, E and F and all the people they call.

If the real intent of this legislation is to collect material that is being evaded because party A is using sophisticated means to prevent the detection of their communications, let us allow that but make certain that we quarantine the communications to those which would have been lawful under the previous interception regime had it been possible to collect the material by direct interception of party A. Let us not open up the possibility of innocent third parties being now roped into a very much expanded net of telecommunications which we have never intended in this parliament to open up.

If it is the government’s intention simply to make certain that evasion is not possible through the means that are currently being adopted, we should quarantine third party communications so that the subsequent communications between parties B, C, D, E and F must not be collected, must not be held, and that material that might otherwise be available were it collected is made subject to both use and indemnity use privilege so that it cannot be used as evidence. If we are seeking to make certain our regime is effective so that it cannot be avoided, we should not be opening up a regime that exposes a whole range of additional people against whom law enforcement has no proper basis for seeking warrants to the whole of their communications with a whole range of other people which would not have been available to the law enforcement agency previously in such a way.

So I think the onus is on the government to tell us why, if they are not prepared to accept that proposition, they want to be able to use this further material far beyond that which they have asserted is the reason for this B-party regime. If the B-party regime is intended to allow the collection against party A, and that is all the communication between A and B—that is, communication that would have been capable of collection if party A had not avoided the warrant—it should not be a basis for extending the regime against parties whose communications would not be the subject of warrant because, under the law as it stands, there would be no proper basis for its collection. We should not be opening this up further.

This is not an issue of addressing a problem that currently is a common-law issue. That is a nonsense argument that has been put forward. The only lawful basis for the interception of a telephone service in Australia now is under the Telecommunications (Interception) Act. There is no basis whatsoever to suggest that there is a common-law right for third party, B-party, interceptions. That is an absolutely absurd red herring that has been thrown into this debate—I do not understand on what legal basis or proposition—by members on the other side. It is a nonsense.

With those remarks, I accept that we do need to clarify the way in which we address some of these issues, but I do not think that the safeguards that have been put in place are consistent with the understanding that the government has advanced for the rationale and the protection of the broader community interests that are also as important as making certain that law enforcement cannot be avoided. I accept, as somebody who has had the responsibility, that high levels of government and law enforcement must be made efficient and effective, but I also believe that this parliament has a high responsibility for protecting individual rights. (Time expired)

Mr WOOD (La Trobe) (8.52 pm)—I rise to speak on the Telecommunications (Interception) Amendment Bill 2006 and recommendations put forward by the independent
Blunn review. Australia enjoys a culture that respects personal privacy. Every Australian values their right to have private conversations. Under current legislation the government is responsible for ensuring its citizens’ privacy is protected—protection which I, as an Australian citizen, value just as much as anybody else. This interception bill will not change that. But first let me tell you a bit about my background and why I am so keen to participate in this debate.

I was formerly a member of the Victorian Police Force for 17 years—seven years as a detective, including four years service at the organised crime squad, where the crew which I was a member of investigated serious crime networks, including the notorious Carlton crew in Melbourne, which has a reduced membership due to the underworld killings. In my experience, one of our biggest problems is the evolution of technology and the criminal community’s growing ability to use technology to their advantage in evading police.

The criminals—and I know this—watch TV crime shows like LA Law and CSI simply to learn skills in forensic crime techniques to avoid detection. Criminals have become experts from law enforcement tools such as DNA, listening devices and telephone intercepts. I should also point out that crime shows have it easy. I am always impressed how in a 30-minute episode a homicide, rape or drug case can be solved, with a major twist at the end to conclude the episode—but, importantly, with a confession just to let the viewers know they have got their man.

In reality this rarely happens. The majority of homicide investigations take weeks, months and sometimes years to complete. Detectives dedicate every breath they take to solving serious crimes, and that is why this legislation is so important. In reality, crime shows are well off the mark, but I can understand why. Good television does not consist of a detective slugging away on a keyboard preparing an affidavit for an entire episode. It would take 50 episodes to cover a detective just compiling one warrant for a complex investigation to put together a telephone intercept, which most likely would comprise at least 30 pages. Why such long affidavits? Simply, the matter must go before a judge and the judge must be absolutely satisfied that the criminal is linked to the crime before he will grant a warrant.

In the Victorian Police the affidavits go back and forth from the investigation team to the special project unit, where the affidavit is subjected to checks and double checks. Once the special project unit is satisfied that all criteria are met, the warrant is again checked by the legal advisers office within the Victorian Police Force. The final step is to take the affidavit and warrant to the Supreme Court’s administrative appeals tribunal, where an independent judge determines whether there are sufficient grounds to grant a warrant. I was listening with interest to the member for Dennison’s comments about the process and how it sounded like it was easy to obtain a warrant. In actual fact it is exceptionally difficult. Police must satisfy exceptionally high standards before a judge will issue a warrant.

Such a cumbersome, time consuming process does impact upon police investigations. I recall in July 1996, while I was a detective at the organised crime squad, a listening device affidavit being prepared over several days. I recall the affidavit was near completion but still needed to go through the rigorous tests of the special project unit. The target for this warrant was Mat Thomas, who at the time was the driver for the now deceased Alphonse Gangitano. Our intention was to install a listening device in the car of Thomas but, because of the high standard of proof required in the affidavit, more preparation time was required. On Sunday, 14 July
1996, a week after starting to compile the affidavit, Mat Thomas drove his Mercedes Benz to the Gatto Nero Bar. When he left, Raymond Oueinati was found dead, kicked to death. Thomas was one of several suspects and was charged with the murder, but was subsequently acquitted. Thomas would say he was innocent. I say he was acquitted of murder. I remember the Monday following the murder and the frustration faced by members of the organised crime squad—knowing that, were the process for obtaining the warrant made easier, what additional information would have been obtained and supplied to the jury had police had a listening device installed in Thomas’s car immediately after the death of Oueinati.

I make the point that police investigations are all about timing. The quicker police can respond, the greater the likelihood of solving crimes. The longer it takes for police to prepare affidavits for listening devices and telephone intercepts, the longer the suspect is able to prepare and calm their nerves and be mindful of what they say. Those in this House who believe the issuing of a warrant is a tick and flick exercise have no idea of the reality of how difficult this task really is and the high legal benchmark that is required.

Other important aspects of this bill under ‘B-party interceptions’ will allow police to cater for criminals who phone swap. This is a simple technique. Again, at the organised crime squad, on numerous occasions the prime target would have dinner with associates and would make calls from the phone of an associate. The prime target would be aware that most likely their own phone was tapped but would also be aware that police would not be able to intercept the phone calls made on the associate’s phone. This legislation will fill that hole and enable police to predetermine what the target will do and intercept crime related calls made by them on the phone of an associate.

B-party interceptions in this legislation could also be used by police to counter criminals who use public phones to call associates. I ask you: why would a drug trafficker stop day after day to make phone calls from a public phone to the same person but never from their own mobile phone? Simply, they are up to no good. But, until this legislation goes through, police only have the ability to monitor the drug trafficker’s phone, not the associate whose phone they have called from the public phone. In fact, I would go as far as to say that the current legislative framework actually protects these modern day criminals from having their illegitimate communications intercepted, simply because of the high legislative benchmark that is needed to be reached before police can obtain a warrant.

It is undoubtedly important to ensure that the interception capabilities of the police are balanced against the protection of Australian citizens’ right to privacy. This is greatly important. But there is a huge benchmark required to be reached by police to take out warrants and they must satisfy a judge. In conclusion, I strongly support this bill.

Debate interrupted.

**ADJOURNMENT**

**The Speaker**—Order! It being 9 pm, I propose the question:

That the House do now adjourn.

**Howard Government**

**Mr Albanese** (Grayndler) (9.00 pm)—In 2006 we have seen the government return to its true form. We have seen a return to the era of dog-whistling. Today in the House, the Minister for Health and Ageing said:

I read in the *Australian* last Friday that he still has the Greek branches but he has lost the Spanish branches, the Vietnamese branches as well as the
Cambodian branches. I could not help but think, ‘Are there any Australians left in the so-called Australian Labor Party today?’

For the benefit of the Minister for Health and Ageing, I remind him that, unlike the Liberal Party, in order to get a vote in the Australian Labor Party you have to be an Australian citizen. We only have one class of citizen in this country, not two, and it does not matter whether your name is Smith, Abbott, Albanese, Panopoulos or Wong—we are Australians all. It took a number of interventions before the Minister for Health and Ageing eventually withdrew his remark. But that is consistent with what must be the government’s polling led push. Last week, in an attempt to appeal to the right wing of the Liberal Party, the Treasurer gave a speech in which he spoke of ‘confused mushy misguided multiculturalism’. He said:

Before becoming an Australian you will be asked to subscribe to certain values. If you have strong objections to those values don’t come to Australia.

No-one is suggesting that extremists of any sort—Islamic extremists, Christian extremists or Judaist extremists—should be tolerated. But the fact is that there is a pattern which is consistent from the top down. The Prime Minister is of course the king of dogwhistlers. We all remember the ‘children overboard’ affair, but the Prime Minister wants to write a different version again. He has now fashioned a new line to cover the ‘children overboard’ affair. He said, just this week, in an interview with the Age:

… I did think that if somebody had done that, it was a pretty bad thing to have done—and they did after all sink the boat, didn’t they?

No, they did not, Prime Minister. The Olong—a barely seaworthy, leaky fishing boat with 223 people on board—struggled back towards the Indonesian coast after being turned around by HMAS Adelaide. Its engines failed and, on direction from the government, the Adelaide towed the boat around the Indian Ocean until it started to sink. Only then did any of the refugees jump into the sea and only then were they rescued. The Prime Minister knew 48 hours after his original ‘children overboard’ claim that it was not true, yet he held out until after election day a month later. The Prime Minister has known for years that the Olong was not sunk by the refugees aboard it, yet he continues to try and cover one untruth with another—one dog whistle after another.

We record that on 2 March 1996 the Howard government was elected—and so was Pauline Hanson as the member for Oxley. We remember well what the Prime Minister said when the member for Oxley gave her infamously speech in which she sought to divide Australians from one another. He said it was about free speech. He said it was a lifting of the cloak of political correctness. He was prepared to go out and press those buttons. That is the consistent form that this government has had. This week, some in the government will speak about 10 years of leadership. It is not leadership to be prepared to divide the community—people against people. It is not leadership to be prepared to appeal to the base considerations of prejudice and discrimination. Yet this government is continually prepared to do it in order to seek political advantage. This government’s overriding objective is its own political interests rather than the national interest. When you look at the pattern that has emerged over recent weeks—the Prime Minister, the Treasurer and the Minister for Health and Ageing, all senior members of the government, all pushing the same line—it is clear that their polling is once again telling them what they should be saying. What we need in this nation, particularly at this time of insecurity, is leadership that unites the nation, not divides it. (Time expired)
Tonight I rise to speak on an issue of great significance to the local community in my electorate of Greenway. Yesterday the Sydney Daily Telegraph published an opinion piece by Lillian Saleh about the settlement of Sudanese refugees, particularly in the Blacktown area. This article concerns me for a number of reasons, not the least of which is that it contains comments that are divisive and fails to show the totality of the situation facing new Australians and the community in a broad sense. Thirteen thousand people arrive in Australia each year as offshore refugees and humanitarian entrants. Six thousand of them come as refugees. These are the people the United Nations High Commission for Refugees tells us are most in need.

Australia has always been a country that welcomes those most in need. In 2005, roughly 5,000 refugees from Sudan entered Australia. More than half of these people have settled in the Blacktown region and many of them live in my electorate. They are vibrant people who have endured much on their journey to call Australia ‘home’. The ethnic conflict that has engulfed Sudan, particularly the western region of Darfur, has been vicious. The two-year conflict has been described by the UN as the world’s worst humanitarian crisis. It is estimated that two million people currently live in refugee camps and more than 180,000 have lost their lives. Starvation, displacement, separation from family members, disease and hunger are the major problems that face these refugees. Those who enter Australia do so as part of our humanitarian program. They come into what can be a very challenging situation for them—a new country, a new language and a new culture—after, as in many cases that I have seen and heard about in my electorate, years of displacement and extreme hardship.

Lillian Saleh’s article referred to comments by Paul Gibson, the Labor state member for Blacktown. He referred to the issue as ‘a powder keg waiting to go off’. These comments are inflammatory and, in my view, irresponsible especially when viewed through the lens of reality; that is, the member has demonstrated little active engagement with new and emerging communities in the local area. The article had been sparked by an incident that occurred in the Blacktown area a few weeks ago—a small scuffle, a one-off incident, that broke out between local police and some Sudanese residents. Having spoken with local police, I want to make it clear that there is no crime epidemic among the Sudanese migrants in Blacktown.

Mr Gibson referred to a meeting he chaired between Sudanese community members and local police. This is the first time he has shown the community that he has an interest in the situation. It is the first time he has brought the two parties together. Conveniently, he did this in the presence of a reporter from the Blacktown City Sun and an accompanying photographer. Although I am on one level heartened to see the member taking an interest in the local community, I am extremely disappointed that it has taken him so long to engage with the local community and that he would then seek to use the situation for political gain. It is an irresponsible way to approach the situation at hand. There are challenges for these people, and it would be foolhardy to deny that fact, but to say that the Australian government has done nothing and to claim that he is an expert on cultural resettlement is indeed naive.

I want to take this opportunity to publicly acknowledge the important work of the Blacktown Migrant Resource Centre, led by the hardworking and dedicated Irene Ross. Irene Ross and her team invest enormous energy in assisting New Australians. In the past 12 months the Blacktown Migrant Re-
source Centre has received record federal government funding amounting to a total of $730,000 to support community projects. The federal government is providing this funding to local people who know best what sorts of challenges are facing the community—and I stand next to the people of the migrant resource centre in working for the community. The Attorney-General’s Department fund an African worker to focus on crime prevention. A community crime prevention committee has been established to work with Sudanese leaders. It has around-the-clock consultants available to police and is developing recreational activities for young people. Integration is not a process that simply happens overnight. (Time expired)

**United Nations**

Mr KELVIN THOMSON (Wills) (9.10 pm)—I note the remarks of the member for Greenway and I hope that she reproaches and censures the Minister for Health and Ageing, whose cheap jibe this afternoon—‘Are there any Australians left in the Australian Labor Party?’—makes it quite clear that he does not regard people of Sudanese background as genuine Australians, regardless of whether they are Australian citizens or not.

Former Labor leader and Minister for External Affairs Dr Herbert Vere Evatt is quite rightly acknowledged as one of the creators of the United Nations. He became the President of the UN General Assembly. His tireless efforts led to the adoption of the UN Charter, containing provisions for the poor, the weak and the oppressed—provisions never envisaged by the big powers. Doc Evatt’s humanitarianism did Australia proud on the international stage. I wonder what he, as a champion of human rights, would have thought of an invitation issued under the auspices of senior Victorian Liberals which has come into my possession. Mr Speaker, let me quote from this invite:

   Alan and Tony are pleased to invite you to the ... United Nations Beer and BBQ Summit on Global Hunger
   (Meat, beer, wine, champagne provided)
   with Guest Speaker Secretary General Kofi Annan

Under that there is this quote:

   “Some 840 million people in the world suffer from chronic hunger. We need to do far better if we are to achieve the Millennium Development Goal of reducing by half, by the year 2015, the proportion of people who suffer from hunger. We are starting with you. You can make a difference!”

Then there is:

   Think Global. Act Local!!!

The RSVPs on this invitation are to Mr Tony Barry, the deputy state director of the Victorian branch of the Liberal Party of Australia, and Mr Alan Anderson, an adviser to Attorney-General Philip Ruddock. This event was simply a grog-on for Liberals. No funds were raised for the world’s hungry and dying. They misused the United Nations logo and insulted Kofi Annan. It is an absolute disgrace and shows the type of out-of-touch arrogance which sets in after 10 years in government. This is in extraordinarily poor taste. It mocks the poor and hungry and international efforts to eradicate hunger and poverty. One wonders what the Treasurer’s brother, Tim Costello, who does such a great job raising awareness and fostering compassion about these issues, would make of this Liberal Party boorishness. Those involved should apologise to the United Nations and make a suitable donation to an appropriate UN body such as UNICEF.

This week we are seeing how good the Liberals are at parties celebrating their 10 years in power. You have to wonder how
many Liberals went to this particular Liberal bash. We have it on good authority that Treasurer Peter Costello’s chief of staff attended, as did a host of other senior staffers. Were there any MPs in attendance? This is something the Liberal Party ought to come clean on. With the evidence coming out on AWB and the government’s contempt for ethical international relations, you can understand perhaps why they do not like the United Nations. But it is unacceptable to hold the UN and Kofi Annan in contempt and it is even more unacceptable to mock the poor and hungry. That really is beyond the pale. This invitation reveals to the community the true colours of the Liberal Party. This invitation is little better than Marie Antoinette saying, ‘Let them eat cake.’

**Australian Flag**

Mr BRUCE SCOTT (Maranoa) (9.14 pm)—I rise tonight in the adjournment debate to continue my remarks about the plan of a socialist youth group called Resistance to encourage people to burn the Australian flag by selling flag burning kits. I voiced these concerns yesterday during the grievance debate, so I will not go over why the Australian flag is such an important national symbol and represents so many things to each individual Australian and why it should and must be respected and treated with dignity.

It is because of what the Australian flag symbolises that there are certain protocols which should be observed when flying, folding and positioning the flag in a building or on a flagpole. These protocols were established decades ago and they have stood the test of time. It is important that we always maintain the dignity of our national flag and illustrate our respect for Australians everywhere who hold the flag close to their hearts.

I would like to again quote one of my constituents, who wrote, ‘Flag burners are like naughty kids wanting to get attention.’ Mr Speaker, I agree with this statement, as I am sure you and countless others do. In this House, we have four Australian flags that you as Speaker maintain. You ensure that they are flying 24 hours a day every day of the year. That is one of your responsibilities. I am sure each and every member who receives one of these flags that have flown in the House of Representatives finds that it is well received in their constituency. That is one of the things you do as Speaker.

There are more appropriate ways for one to express how they feel about a certain issue, and I encourage these socialist youth groups to think about this. They could write to their member of parliament for a start. The centre of our democracy is the parliament. If they wrote to their member of parliament, he could express their concerns in the parliament. But to use our national symbol to draw attention to their cause will achieve absolutely nothing. In many cases, I believe it will bring condemnation.

The Australian flag is a very powerful symbol to me and, I believe, to an overwhelming majority of Australians. It saddens and hurts me that someone can think they can get away with desecrating our Australian flag. It is with this passion and support for the protocols for the protection of our flag that I have decided to facilitate a petition to make it an offence to burn or desecrate the flag, or sell flag burning kits which would only encourage people to burn the flag and break what should be, I believe, a law. These socialist youth groups must be prevented from continuing with their plan.

I am heartened by the signatures that are being added daily; in fact, I am overwhelmed by the signatures and the positive response this petition has received. I do not think the acts of burning the flag, desecrating the flag or selling flag burning kits should be made
criminal offences, and neither would most Australians. Quite frankly, I think that would make a martyr of those people who want to continue these actions. Offenders would not learn from their actions, and they would probably be more likely to re-offend because of the publicity that they would gain by their actions and because of the fact that they would be seen to be martyrs by having criminal charges brought against them for their actions.

What I would like to see is offenders undertaking compulsory education on the history of the flag and the values it represents to each and every Australian. By undertaking compulsory education these offenders would become, I believe, far more valuable citizens to us. They would learn from their actions. They would also develop a better sense of the Australian identity. They would be better people, both as individuals and as members of their communities. People need to have a good sense of who they are, what they are and where they come from—their national roots and heritage. By learning about the flag and this country of ours they can begin to understand Australia’s national identity.

I want to assure members that this compulsory education is not in any way trying to take away the fundamental rights of Australians to exercise freedom of speech or expression. I will leave you with one final point. People who burn the national Australian flag are in fact burning the very symbol of their freedom of speech and freedom of expression, because it is this flag which represents the merging of these two fundamental rights—rights which form an intrinsic part of the Australian national identity. (Time expired)

Industry: Regulation

Mr LAURIE FERGUSON (Reid) (9.19 pm)—Graeme Samuel, ACCC chairman, has pointed out that the Trade Practices Act provides a framework for effective industry regulation. However, he also argues that while government provides a solid regulatory foundation business should also have the opportunity to raise the bar of corporate behaviour over and above the black-letter law through a process of coregulation, meeting widespread community standards and expectations. Similarly, the Corporations Act provides a sound foundation for the provision of either traditional command and control regulation or the more common system of coregulation derived from principles based legislation.

The ACCC’s current preferred approach to regulation represents a move away from the self-regulatory models to a coregulatory approach to industry codes. This approach is viewed by the ACCC as being a ‘supported form of self-regulation’. This support will be in the form of providing advice and endorsement of an effective industry code and a framework to monitor ongoing compliance with the code. I do not discount the need to reduce regulation. Certainly we have witnessed an exponential growth in regulation. However, oftentimes this has been due to the increasing complexity of products and services on offer. The challenge that we ought to consider is not how to reduce regulation as an unchallengeable, infallible doctrine but rather what is its best combination.

Consumer groups have also supported the coregulation model. This model is essentially regulation with a regulatory hook attached to it, such as government licensing or broader principles based legislation. According to the joint consumer submission to the Taskforce on Industry Self-Regulation in 2001:

... self-regulation by industry has been shown to require a regulatory hook, thereby becoming co-regulation. Examples of such a ‘regulatory hook’ include membership requirements pursuant to legislation or licence conditions required by industry regulators to ensure they have the capacity
to enforce standards where necessary against recalcitrant members of the industry. Thus the remainder of this submission will concentrate on models for co-regulation, on the basis that the submitting organisations are aware of no successful model of self-regulation in consumer markets in Australia.

Functioning, efficient, self-regulatory schemes may promote good practice and target specific problems within industries, impose lower business compliance costs and offer quick, low-cost dispute resolution. Effective self-regulation can also avoid the often overly prescriptive nature of regulation and allow industry the flexibility to provide greater choice for consumers and to be more responsive to changing consumer expectations. Indeed, the recently implemented amendment to the Corporations Act takes the practical form of principles as opposed to distinct black-letter prescriptions which may be cumbersome and unable to keep up with the pace of industry change.

With these points in mind, regulation needs to be considered as a means to an end. Self-regulation ought not be imposed as a normative policy posture to be pursued regardless of needs. I note the further critical point that, first and foremost, regulation underpins markets. Contract law provides certainty for market participants. Markets, such as those in electricity, are entirely constituted by regulation. Secondly, where markets fail, appropriate regulations provide essential safeguards needed to protect vulnerable consumers and maintain consumer confidence in the fairness and security of the markets.

The general insurance industry provides us with a good example of an effective co-regulatory structure. Late last year my office was visited by representatives of the Insurance Council of Australia to highlight to me the benefits deriving from the recent review of the general insurance industry code of practice. I am pleased to recognise the work of the insurance industry and the efforts of the consumer movement in assembling a highly fastidious and well-enforced code. It promotes consumer and industry interests. Indeed, in looking at the code and the manner in which it was formulated, it becomes clear that in a coregulatory environment neither industry nor consumer groups can afford to take an adversarial approach to promoting good public policy. The self-regulation task force would be well served to take a closer look at the manner in which coregulatory methods have worked and pay less attention to those elements which seek to do away with regulation altogether.

The alternative reality is a system that lacks public confidence and opens the options for exploitation. The government itself has had the obvious experience in the migration agents market, a system of dogmatic approaches we saw over many years where the industry could supposedly be trusted to look after itself. Despite assurances from the ministers in the current government that that was the way to go, in recent years we have seen a significant backdown and the need for coregulation in that field to be maintained.

**Australian Flag**

Mr Turnbull (Wentworth—Parliamentary Secretary to the Prime Minister) (9.23 pm)—I want to record in the House tonight my appreciation of the patriotism of the Liberal councillors of Waverley Council in my electorate. Last year Councillor Joy Clayton, a Liberal councillor, moved a motion, seconded by a Greens councillor, Dominic Wy Kanak, in Waverley Council that the Australian flag and the Aboriginal flag should fly from the Bondi Pavilion—surely the most iconic building on Australia’s most famous and most loved beach, Bondi Beach. That motion was rejected by a vote of the other Greens councillors, led by the mayor, Mora Main, and the entire Labor
Party contingent. Every single one of the members of the Labor Party voted against flying the Australian flag. When they were called upon by the people of Waverley and Sydney and the newspapers of Sydney to explain this extraordinary action, what did they say? They said, ‘We were concerned it would promote disharmony, hatred and dissent.’ They were afraid to fly the flag of this nation above our most famous beach. They were afraid to fly the flag of Australia on the beach that the entire world associates with our nation.

Bondi Beach is more than just a beautiful strand of sand, great waves, lifesavers and swimmers. Bondi Beach is a home to Australians and visitors from every corner of the world. I was on the 380 bus not so long ago and I was listening to two young Irish people sitting behind me. One of them said to the other, ‘Pat, where are you living nowadays?’ and he said, ‘I’m living in County Bondi.’ Bondi is in fact the home of St Patrick’s Church, the home of the Irish chaplain in Australia. It is home to a very large Jewish population. It is home to a very large Russian population. Bondi, in its diversity, mirrors the diversity of Australia, and that diversity is bound together by a common commitment to our Australian values and symbols, principal amongst which is the flag.

The Liberal councillors who supported flying the flag in the face of the craven betrayal of our national symbol by the Labor Party and a few Greens were councillors Joy Clayton, Sally Betts, Kerryn Sloan, Tony Kay and Richard Davidson. They stood up for Australia late last year and they were voted down because they did not have the numbers. But the outrage, the amazement and the disgust of the community of Waverley was such that last week the council backtracked. I am pleased to say that even the Labor Party finally saw the light and the council has voted to fly the flag from the Bondi Pavilion, a building in the centre of Bondi Beach from which the flag flew many years ago.

The number of excuses that were offered by the various Labor councillors as to why the flag should not be flown was remarkable. They had the ‘promoting civil unrest’ excuse; they had the heritage excuse. ‘We’d need to do a heritage study,’ they said. That was blown up when the Daily Telegraph published a photograph of the Bondi Pavilion from the 1930s showing two large flags flying from the roof. So they had all their excuses, but at the very base of it they were ashamed in the wake of the Cronulla riot into saying: ‘This is Australia. We believe in Australia. We are all Australians.’ I am proud that my community, one of the most diverse in Australia, with people from every corner of the world, to a man and woman was ashamed of the vote of those Labor Party and Greens councillors. I am pleased to see that that community reaction has resulted in the patriotic endeavours of the Liberal councillors finally finding a majority. I am sure that all of us here in this House, even the honourable members opposite, will be pleased when the flag flies at Bondi. (Time expired)

Visas

Ms CORCORAN (Isaacs) (9.28 pm)—In the few moments that are left of this debate tonight I would like to raise an issue that has been raised with me many times in my electorate, and that is the way visitors visas are managed. Very often a constituent will come into my office seeking assistance in getting a relative to come out to Australia to attend a family wedding or some sort of celebration to find that the visitors visa has a bond attached to it. When you make inquiries about which country these visitors are coming from and how much the bond is, there appears to be no particular pattern to all of this. There may well be very good reasons for the way
all this is organised, but it is not clear and it is not transparent. I have put some questions on the Notice Paper to the Minister representing the Minister for Immigration and Multicultural Affairs to see if we can unearth why this is, but many people in my constituency are feeling that the system is perhaps not being administered fairly and clearly. I think we need to have a good strong look at this.

The SPEAKER—Order! It being 9.30 pm, the debate is interrupted.

House adjourned at 9.30 pm

NOTICES

The following notices were given:

Mr Abbott to move:
That:
(1) the House invite the Right Honourable Tony Blair MP, Prime Minister of the United Kingdom, to attend and address the House, on 28 March 2006, at a time to be notified by the Speaker;
(2) at this sitting of the House:
   (a) the initial proceedings shall be welcoming remarks by the Prime Minister and the Leader of the Opposition and an address by the Prime Minister of the United Kingdom, after which the Speaker shall immediately suspend the sitting until the ringing of the bells; and
   (b) the provisions of standing order 257(c) apply to the area of Members’ seats as well as the galleries; and
(3) a message be sent to the Senate inviting Senators to attend the House as guests for the welcoming remarks by the Prime Minister and the Leader of the Opposition and address by the Right Honourable Tony Blair MP, Prime Minister of the United Kingdom.

Mr Nairn to 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: Construction of a new chancery building for the Australian Embassy in Phnom Penh, Cambodia.

Mr Nairn to 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: Construction of a new chancery building for the Australian Embassy in Rangoon, Burma.

Ms Burke to move:
That this House:
(1) recognise the plight of the thousands of community-based asylum seekers in Australia who are denied income support, work rights and Medicare access as a result of the Government’s unfair and inflexible immigration policy, making survival nearly impossible without the assistance of various church and charity groups;
(2) acknowledge that in many cases this breaches the Refugee Convention and the UN Convention on the Rights of the Child; and
(3) call on the Government to:
   (a) abolish the 45 day rule, which prevents community-based asylum seekers who make visa applications outside that period from receiving any form of income or health benefits; and
   (b) give all community-based asylum seekers in Australia work rights and access to Medicare.

Ms Burke to move:
That this House:
(1) note that it is estimated that around one in six Australian women will be sexually assaulted in their lifetime;
(2) condemn the reported statement of Sheik Faiz Mohamad that a victim of rape has “no-one to blame but herself”; and
(3) acknowledge the trauma and suffering of victims of sexual assault and rape;
(4) recognise the need for national leadership to combat these crimes; and
(5) urge the Government to:
   (a) develop a national strategy to combat sexual assault and rape;
   (b) increase funding and resources to:
       (i) assist victims of sexual assault and rape; and
       (ii) educate the community about these crimes;
   (c) make sexual assault education mandatory in Australian schools; and
   (d) nationalise sexual assault laws—taking a ‘best practice’ approach—and create a central board to review these laws regularly.
Mr BYRNE (Holt) (4.00 pm)—I would like to speak to a petition that I wish to table of 10,467 signatures. That petition relates to the availability of Herceptin on the Pharmaceutical Benefits Scheme for women that experience the early stages of breast cancer. This is an issue that in essence has, I understand, support across the political divide. Ten thousand, four hundred and sixty-seven Australians feel that Herceptin should be approved under the Pharmaceutical Benefits Scheme so that it can be made available to women with early stage breast cancer.

About 13,000 women in Australia, as I understand it, each year are diagnosed with breast cancer. Of those 13,000 women, I am told 20 per cent have what they call HER2-positive breast cancer. I also understand, through clinical trials or trials that have occurred for some period of time, that this particular type of breast cancer, HER2, does respond to the drug Herceptin. In fact this drug is listed on the PBS for women that experience and suffer, I think, terminal stage cancer when the cancer metastasises. This is an incredibly important issue for women but also for men. Two hundred men per year experience breast cancer. That is nothing compared to the 2,000 to 3,000 women that have HER2-positive breast cancer. The fact is that we have a drug which is clinically proven to increase the chances of survival of breast cancer, particularly early stage breast cancer in women, and it is not listed on the Pharmaceutical Benefits Scheme for those women.

In these matters what strikes home are the personal stories. I would like to relate the story of Marie Bissels, who is 46, a grandmother and a mother of three children. She was diagnosed with HER2-positive breast cancer last year. She has had months of chemotherapy. She has had 33 treatments of radiation. She has had surgery. This is a woman who has been through profound trauma in treating this particular cancer. Now she is told that she needs Herceptin to complete this recovery. Without Herceptin, she has about a 25 per cent chance of it recurring—with it, about an 83 per cent chance of it not recurring. But in order to be treated with Herceptin she has to pay, because she is a fairly tall person, $91,000—$6,000 for the first treatment and then $5,000 each for 17 treatments thereafter. Herceptin will basically cure this particular disease. We must allow people like Marie to have access to treatment and not have to pay $91,000. I urge members of this chamber to support this petition so women can get the treatment they justifiably deserve.

The petition read as follows—
To the Honourable the Speaker and Members of the House of Representatives Assembled in Parliament:
The petition of certain citizens of Australia draws to the attention of the House that:
• There are currently over 2,000 HER-2 positive breast cancer sufferers in Australia.
• Herceptin benefits HER-2 positive breast cancer sufferers by significantly reducing the risk of breast cancer recurring.
• Herceptin is currently available on the Pharmaceutical Benefits Scheme to advanced HER-2 positive breast cancer sufferers.
• Herceptin is not available on the Pharmaceutical Benefits Scheme to early stage HER 2 positive breast cancer sufferers.
• Herceptin can only be accessed by early stage HER-2 positive breast cancer sufferers at a cost of between $50,000 and $70,000. Therefore early stage HER-2 positive breast cancer sufferers face a life and death financial dilemma.
• Safeguarding the lives of all HER-2 positive breast cancer sufferers and giving them the best treatments available is a national responsibility.

Your petitioners therefore request that the House fast tracks Herceptin onto the Pharmaceutical Benefits Scheme for early stage HER-2 positive breast cancer sufferers.

from 10,467 citizens. (Time expired)

McPherson Electorate: Lions Youth of the Year Quest

Mrs MAY (McPherson) (4.03 pm)—I had the honour last week of chairing a committee to judge the Palm Beach-Currumbin Lions Club Youth of the Year Quest. I was joined in my judging responsibilities by Mr Ron Workman OAM, President of the Currumbin-Palm Beach Returned and Services League; and Mr Barry Ferris, a retired high school principal.

The aim of the Lions Youth of the Year Quest is to select an outstanding youth to be an ambassador for his or her country and travel overseas under the auspices of Lions Clubs International. The quest is to encourage, foster and develop leadership, in conjunction with other citizenship qualities, in our youth at the age when they are about to enter the fields of employment or higher education. The quest provides students with the incentive to pay greater attention to the general qualities so vital in developing our youth into first-class citizens. The qualities we were looking for as judges, apart from academic attainments, were those of leadership, personality, sportsmanship, public speaking and good citizenship.

We certainly spent the afternoon and evening questioning and talking to seven exceptional young Australians, each of whom had already achieved in many areas of endeavour. Our judging was difficult. We had to engage these young people with questions ranging from local community issues to international affairs. Their resumes were impressive—each was a high achiever and all were leaders within their school communities. The task of choosing one winner and nominating one student for the public speaking award was made more difficult by the high calibre of entrant.

The overall winner was Charlotte Borwick, an exceptional young lady who is vice-captain of Elanora State High School. The public speaking award went to Beth Ward-Smith, who was the captain of Elanora State High School. Both girls are a credit to their school, their families and their local community. The other entrants were Kate Di Pompo, from Marymount College, Cha Cha Westerveld from Somerset College, David Mace-Kaff from Elanora High School, Annaliese Woods from Palm Beach-Currumbin High School, and Sam McDonald also from Palm Beach-Currumbin High School. Sam has a promising future in swimming and hopes to represent Australia at the Beijing Olympics. He is also the school captain. Annaliese is a successful actress and school captain. David is also involved in acting and producing short films and is school vice-captain. Cha Cha is a gifted public speaker and debater and Kate has a strong academic background with outstanding results in Japanese. It was a great pleasure to meet and spend time with each of these students. I wish each and every one of them success in their future endeavours.
Health Insurance

Mr GEORGANAS (Hindmarsh) (4.06 pm)—I rise on an issue which is a very real concern to the people of the electorate of Hindmarsh. Once again, private health insurance has gone up. Once again, the Minister for Health and Ageing has rubber-stamped the health insurance industry’s suggested increase—for the fifth time in a row. It is the fifth consecutive premium increase for private health funds. While not quite as bad as last year’s eight per cent, this year’s 5.7 per cent adds not just to last year’s massive rise but to the 7.5 per cent in 2004 and the 7.3 per cent in 2003.

Time and again the increase is well above the CPI. This year’s increase means that the price of private health insurance has increased by 39 per cent since 2001. This is in the context of a promise by the federal government to keep private health insurance affordable and put downward pressure on premiums. At 39 per cent more expensive than it was five years ago, I wonder who it is affordable for, because the people who are contacting me are not telling me that they can afford it. It is increasingly getting out of reach for average people. For younger Australians, who are rarely ill, it is a cost that does not add up. Younger people are dropping out of private health insurance or are failing to take it up in the first place, making the private health insurance system unsustainable. Older people are more likely to keep their insurance because they know they are more likely to need it. Younger people cannot afford to prop up the system, so the costs increase for the insurance companies who, in turn, pass on the costs to their customers.

Blind Freddy can see the problem, but the health minister is content to sit by and allow private health insurance premiums to continue to spiral out of control and just rubber-stamp the industry’s call for increases when it wants one. Because of this government’s attitude towards Medicare—it has reigned over a dramatic fall in bulk-billing rates—and its failure to adequately respond to the growing needs of the public health system, most people feel that private health insurance is a necessity. In fact, there are people who have told me that it really has become a matter of having to choose between cutting back on their food bill and paying for their health insurance.

As I have said in this place before, private insurance price hikes are putting Australia on a path towards an Americanised health system in which only the rich can afford to be healthy. Such a system is entirely un-Australian. Yet this government continues to treat our public health system with disinterest instead of fighting to keep health insurance premiums down and making sure there is a robust public health care system which can respond to the needs of all Australians.

Angel Flight

Mr SLIPPER (Fisher) (4.08 pm)—I would like to bring to the attention of the House a charity organisation that has been doing some extremely good work in the Queensland community. The charity is Angel Flight. I wish to draw particular attention to the wonderful contribution that citizens and my electorate on the Sunshine Coast are making to this organisation.

Angel Flight was established in Queensland in 2003 and serves by coordinating non-emergency aeroplane flights for those members of the community who are both medically and financially needy. For example, a young child who lives in outback Queensland who requires
medical treatment in Brisbane may face a lengthy and sometimes painful trip by road. In such cases Angel Flight regularly steps in to provide transport by air, making the journey both quicker and more comfortable than would be experienced by road.

The goodwill that is demonstrated by Angel Flight in such circumstances also has an uplifting effect on the patients and their families. The service does not carry medical staff or equipment, as is done by the Flying Doctor, but operates solely as a type of aerial taxi service to ensure that patients in need can get to the medical attention they require on time. Also within its charter, it transports blood and blood products, medical drugs and patient carers for compassionate reasons.

Since its inception, Angel Flight has flown some 1,500 missions for some 800 patients. The pilots donate their time and aircraft to this service. They often donate the fuel that they use, although they do receive sponsorship in this area from Demazin. Sunshine Coast pilots are among those who give of their own time to service the needs of southern Queensland. These pilots include Trevor Steel, who to date has flown 29 missions; Andrew Spall, two missions; Tony Green, one mission; Daryl Jones, four missions; Adrian Anderson, one mission; Scott Simpson, three missions; and Neil Bates, one mission.

These pilots are supported by a division of Angel Flight known as earth angels, people who assist with ground transport by picking up patients and their families from the airport, driving them to their medical appointments and then returning them to the airport for their return flight home. These people all do a tremendous service for the community. There are 25 earth angels on the Sunshine Coast. They also help with fundraising and event assistance.

The exceptional contributions made by Angel Flight were recognised in my electorate at the Fisher Community Australia Day Awards, with the awarding to Angel Flight of the Des Scanlan Memorial Shield. This award is presented by me each year, after deliberation by the Australia Day committee, to an organisation that has devoted itself to meeting a need in the community. It was accepted by Trevor Steel of Angel Flight.

Des Scanlan was one of the Sunshine Coast’s most respected citizens, a tireless worker and a supporter of many community organisations, including lifesaving, the Sunshine Coast Turf Club and many more. He is best known, along with his wife, Barbara, as being the driving force behind the establishment of Australia’s first permanent helicopter rescue service in 1976. It is today known as Energex Community Rescue. I salute Des Scanlan, I salute Angel Flight and I salute all those people in the south-east Queensland community who make such a wonderful contribution to our Sunshine Coast. (Time expired)

Investing in Our Schools Program

Mr GIBBONS (Bendigo) (4.12 pm)—I rise to inform the House of the botched implementation of the Howard government’s Investing in Our Schools program. Most, if not all, central Victorian schools are still waiting for their funding allocation after being assured by the coalition government that the funds would be initially available in late December 2005. The department’s own website stated in early January that the funding would become available at the new time of mid-January. We are now at the end of February and there is still no sign that the funds will be available soon. Some schools, acting on the advice of the department, have made purchases or commissioned works and are now being pressed for payment by contractors and suppliers. In fact, contractors in my electorate have undertaken work for the various
schools to the tune of over $100,000 and still have no idea when they will be paid. These are small businesses with limited capacity to carry this kind of debt, especially given that the funds are supposed to be government backed.

The Howard government have constantly chanted that they are the champions of small business, and now they are about to cause some small businesses severe financial difficulty or, worse, possibly send some of them to the wall. This is causing major problems for schools with limited financial resources, and many have had to use their own funds or simply to wait for the Investing in Our Schools funding to arrive. They commissioned the works in good faith, on instructions from the Department of Education, Science and Technology and in anticipation of the funds being available in December, the original time frame set out by the department. Now they are experiencing difficulties in meeting those commitments because of the Howard government’s incompetence. This funding scheme was a much trumpeted Howard government election announcement, but they have completely botched the administration and we still do not know when the funds will be available.

On top of all this mismanagement, the Howard government has clearly rorted the Investing in Our Schools program, channelling twice as much money into coalition seats as Labor seats. If ever there were to be a television program called Australia’s Greatest Rorters, the Howard government would be in a class of its own and would easily take the Gold Logie. Sixty-nine million dollars out of a total of $105 million in round 1 of the Investing in Our Schools program was poured into coalition seats; 19 of the 20 electorates receiving the highest funding are held by the coalition. The Howard government just cannot help turning everything it does into an outrageous pork-barrelling exercise in order to shore up its support in its own constituencies. Coalition MPs and duty senators were notified of successful schools days before Labor MPs, because the Howard government directed public servants to supply draft media releases to coalition MPs and senators only. These figures clearly show that politics was the motivation behind the Investing in Our Schools program. Nineteen of the top 20 electorates, in terms of total funding to an electorate, are coalition held.

This is an outrageous breach of the electorate’s confidence. The program has continued along the same lines as all the other rorts we have seen from this government—in the AusLink exercise and in all of the other programs that the National Party have had carriage of, which have resulted in rorts to the tune of many millions of dollars at the expense of hardworking electorates all around Australia. (Time expired)

Casey Electorate: Bayswater North Primary School

Mr ANTHONY SMITH (Casey) (4.15 pm)—Last Monday I again had the pleasure of visiting a highly successful primary school in the federal electorate of Casey—the Bayswater North Primary School, where I had the privilege of presenting badges and certificates to school captains and vice-captains and house captains and vice-captains. Bayswater North Primary School is a successful school where the teachers and the parents work hard to go the extra mile to give young students the best possible education at the school. The school principal, Leigh Johansen, and school council president, Glen Bowen, deserve great credit for all they do for the strong school community and the great focus they have on tangible education outcomes, particularly with their constant promotion of reading amongst the young students, especially young boys.
My visit to the school occurred the day before their interschool swimming sports competition, which was very much a focus of the school assembly. They had won in the past two years and I am pleased to say that the day following my visit, when they competed again with seven other local schools, Bayswater North once again won the competition. They were behind with just a couple of events to go but came through and won the championships. Special mentions need to go to Liam Fowlie, Bethany Arena, Hanna Coward and Dale Ingleton, who all did very well and starred on the day. I am also told that the freestyle and medley 12- and 13-year-old boys team did very well.

Well done to all the students, who have again put a smile on the face of their school principal, Mr Johansen, who, as a passionate St Kilda supporter, rarely experiences such sporting happiness.

Hume Highway

Mr HAYES (Werriwa) (4.17 pm)—Last week a public meeting was convened by Campbelltown City Council to discuss the problems surrounding the proposed funding for the Hume Highway on and off ramps at Ingleburn. The funding of the off and on ramps is a controversial issue for local businesses in Minto and Ingleburn industrial estates, which are being asked to pick up the tab for more than $4 million, about one-third of the total construction cost of these ramps.

This is not the first time I have raised this issue in this place. As a matter of fact, I raised it in the last sittings. There is no doubt that businesses are angry about being asked to pay the construction cost of these ramps, which will allow better transport flow in the local area and direct access to the national highway.

Yesterday we had a debate as to who should fund the developments on the Pacific Highway. Many points of contention between New South Wales and state governments were mentioned by members participating in that debate. But the Hume Highway is somewhat different. There is no argument about who is responsible for looking after the Hume Highway; it is widely accepted that this is the responsibility of the Commonwealth government. Accordingly, it should be the responsibility of the Commonwealth to fully fund the on and off ramps at Ingleburn.

Despite the fact that some have tried to distance themselves and the Commonwealth from the responsibility to fully fund these ramps by saying that the benefit of their construction will primarily be for local transport, this is simply not the case. In an area of population and economic growth such as the south-west of Sydney, it is impossible to divorce the local benefits from national benefits. In 2001 a study by Mason Wilson Twiney, traffic and transport consultants—a study funded, I might add, by the federal government—pointed out that the Commonwealth would consider funding the ramps if it were found that there was strategic transport significance, and the study went on to so conclude.

While the member for Macarthur may feel it is appropriate that every single ratepayer in Campbelltown should bear the cost, I do not believe that this should be the case. Residents have already borne the cost of the federal government’s inaction over many years as they have had to share their suburban streets with trucks entering and exiting the national freight networks in Campbelltown. The residents of Campbelltown have already paid a high price. It is
about time that the federal government repaid the debt to the community by fully funding the ramps.

The business communities of Ingleburn and Minto have the right to be upset, but they should direct their anger to the federal government in respect of its failure to fully and properly fund the on and off ramps to the Ingleburn industrial estate.

**Beattie Government**

**Mr Lindsay** (Herbert) (4.20 pm)—What is going on in Queensland with the Beattie government? They cannot run the hospital system, they cannot run the police force and they cannot run the ambulances. I want to illustrate that with some examples from my city of Townsville, Australia’s largest tropical city.

This week Queensland Ambulance Service staff have said, ‘We are worn out.’ At night there are only two ambulances on duty to cover the whole of the city. The staff are suffering from fatigue from working long hours. How would you be if you were an ambulance officer and you were sent to Hughenden to pick up a patient to bring back to Townsville, an 800-kilometre round trip, and were then immediately sent to Ayr, another 85 kilometres and double that as a round trip, and then, when you got back to Townsville having travelled nearly 1,000 kilometres, to have the system send you out to Charters Towers, another 240-kilometre round trip, in a day?

**Mr Neville**—Dangerous.

**Mr Lindsay**—It is dangerous. The officer got home and was just worn out. That is how the Beattie government is running the ambulance service in Townsville at the moment. It is running the police service the same way. Our police almost went on strike last week because they do not have enough officers to keep up with the workload. They are 40 officers understaffed. There is only one patrol car on duty at night to cover the whole city. When there was an altercation in Flinders Street East the other night, there were no cars anywhere to cover the rest of the city—and that is dangerous.

What about our hospital? The Townsville Hospital is a level 6 hospital, the tertiary treatment hospital for the whole of North Queensland—larger than the state of Victoria. It is 100 per cent full 100 per cent of the time. Do you know how the staff deal with the overload? They park the patients either on the floor or on trolleys in A&E. That is outrageous. A further indictment of the Beattie government is that there are no plans at all to provide additional accommodation. There has been no plan set in train to design a new wing at the hospital, so it will be years before we get extra beds at the Townsville Hospital. How is the hospital going to cope in the intervening years?

I demand that the Beattie government looks at the proper provision of beds in our hospital, looks at the proper provision of men and women in the Queensland police service and looks at the proper provision of staff in the Queensland Ambulance Service.

**Australia Post**

**Mr Swan** (Lilley) (4.22 pm)—I rise today to discuss Australia Post’s long-term plan to restructure their letter-processing facilities and infrastructure throughout south-east Queensland. This is an issue of importance to many hundreds of workers currently employed by Australia Post, many of whom live in the electorate of Lilley.
Northgate Mail Centre is a modern, serviceable facility that specifically contains a large letter-processing machine. Australia Post has a second facility on the south side at Underwood that separately handles parcels. Australia Post claims that both these facilities have now reached maximum capacity. Consequently, it proposes to establish a larger facility for letter processing and other services at Yatala, located over 50 kilometres to the south of the Northgate facility.

Comments from Australia Post which have suggested that the mail-processing facility will be moved entirely to the new Yatala facility have, quite understandably, caused enormous distress for employees, particularly among long-term employees who have taken out mortgages and settled their families in anticipation of a long working life at this modern Northgate facility. The Northgate Mail Centre is a stable and convenient workplace for many locals and the proposed move would be to their detriment and the detriment of their families. I want to make it very clear to Australia Post that I oppose their plans to move the letter processing in its entirety from Northgate to Yatala. The Northgate facility sits on valuable industrial land and is superbly located in the growth area of south-east Queensland. The facility is poised to take advantage of a growing market in a growing area.

I would hate to think that Australia Post has a hidden agenda for moving the letter-processing facility from Northgate to Yatala. Pursuing this course of action could inevitably force long-term employees to leave their employment with Australia Post. It is unlikely that, when faced with the prospect of a 50-kilometre drive to work, these employees of the Northgate Mail Centre will be in a position to commute. The prospect of a 100-kilometre commute with tolls and the exorbitant cost of petrol would be unappealing to full-time workers but even more unappealing to part-time workers.

I am also seriously concerned that the underlying motivation of this move is to force current employees to terminate their employment with Australia Post, consequentially providing Australia Post with an opportunity at a greenfield site to take full advantage of the Howard government’s new industrial relations laws. At a new site in Yatala, Australia Post would be able to employ new workers under vastly eroded conditions of employment now available as a result of the industrial relations changes. These new employees would have nothing to look forward to except lower wages and conditions.

I wish to put Australia Post on notice that I am going to fight tooth and nail to secure the jobs and employment conditions of the letter processors and drivers at the Northgate Mail Centre. I fail to see that there is any economic statement that would justify this move or any business plan from Australia Post that would justify the removal in its entirety of letter processing from the Northgate site. This proposed move by Australia Post is short-sighted and unjustifiable, without regard to the livelihoods of hundreds of workers currently employed at the Northgate facility.

Investing in Our Schools Program

Mr NEVILLE (Hinkler) (4.25 pm)—The Labor Party’s criticism of the coalition’s Investing in Our Schools program, which the member for Bendigo spoke about earlier, shows that the party has no idea about the funding of regional schools. This week the deputy opposition leader, Jenny Macklin, criticised the government’s allocation of funds for schools and claimed that the government is rorting the program. Nothing could be further from the truth. I would like to make three points to cover the inaccuracy of that statement. The first one is this. She is
down here in Canberra saying that too much money is being spent in coalition seats. For a start, most country and regional seats are held by coalition members. You would find that a lot of money would go to those electorates not because they are coalition electorates but because they have more schools—that is, not big schools but a lot of schools. There are a lot of schools that do not have shadecloth, do not have airconditioners and do not have library facilities. A lot of schools have been neglected by the state government. That is the first point.

Part of that first point is this. While she is down in Canberra saying that we are getting too much, up in the Hinkler electorate Greg Purches, the former ALP campaign director and organiser of the Teachers Union, is saying it is not enough. We have one message from the ALP in Canberra telling us that it is too much and in the electorate we have the other side of the ALP saying it is not enough. You cannot have it both ways. That is the first point.

The second point is that these moneys are allocated by assessment committees, and those assessment committees are made up of principals, parents and members of the school community, with a state government adviser. Note: there is a state government adviser. How is it then that these people can say that it is not independent? The third point I would make is that, when Labor were in power, they did nothing like this for schools in country areas.

I make no apologies for having, say, $50,000 going to Avoca State School for refurbishing classrooms or funding going to Bundaberg South State School to build an outdoor playground area. Kids in Queensland, with those hot climates, do need refrigerated airconditioning and do need shadecloth. The reason for this program is largely to empower these schools to make up for the neglect and the lack of prioritising by the state government. If Hinkler is the fourth best resourced electorate in Australia, long may it continue. I make no apology for it.

Child Care

Mr DANBY (Melbourne Ports) (4.28 pm)—Yesterday we saw in the parliament a debate on child care, which I would have thought—given the views of the member for Lindsay, who has been very critical of the government—would have been non-partisan. Unfortunately, the debate was characterised by an amount of divisiveness from the members for Bowman and Lindsay that completely neglected this important issue of child care. The presentations we had from both of the government members focused on the fact that subsidies to parents—which are running at 72,000 across Australia, according to the member for Bowman—were the only thing that this government needed to do to support the increased requirement for child care around Australia.

This is patent, free-market nonsense. Obviously, people working and sending their children to private child-care centres such as the ABC child-care centres all over Australia are, hopefully, having their children well looked after. Private child care is an issue which is very controversial in other countries such as Canada, which ABC are trying to move into at the moment.

The point that seemed to evade the member for Bowman completely is that in cities right across Australia there is an increased demand for community child care with people who work in community child-care centres that are not for profit; people who do it to help the community—volunteers; people who do not look after children for money. This is done in a completely unplanned way because the federal government, although it is providing huge amounts of money for the private sector, has no idea of where the demand for child care is. The current
Victorian government has had to take up the federal government’s slack in Victoria by pointing out that it is going to run a pilot program into the needs of child care just as the federal government does in aged care. It would seem a very wise idea, for the best application of federal government money, to know where the needs are in order to be able to apply the money into those areas.

In my electorate there is a very interesting difference between two different councils, the Glen Eira council and the Port Phillip council. They have to take up the slack that the federal government should be providing in this area. The Port Phillip council is spending a huge amount of money on community based child care, money that it should be given assistance with by the federal government.

Labor at the last election, had it been elected, hoped to give money to community based child care for capital expenditure. These are the kinds of imaginative ideas in the inner cities all around Australia that are necessary. I commend the ideas of the member for Sydney in assisting parents with the rebate on child care.

The DEPUTY SPEAKER (Hon. IR Causley)—Order! In accordance with the resolution agreed to in the House yesterday the time for members’ statements has concluded.

FISHERIES LEGISLATION AMENDMENT (COOPERATIVE FISHERIES ARRANGEMENTS AND OTHER MATTERS) BILL 2005

Debate resumed from 13 February.

Second Reading

Ms LEY (Farrer—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (4.32 pm)—I move:

That this bill be now read a second time.

The Fisheries Legislation Amendment (Cooperative Fisheries Arrangements and Other Matters) Bill 2005 will help to ensure that the Commonwealth’s fisheries resources and marine environment are managed in an ecologically sustainable and efficient manner.

The amendments to the Fisheries Management Act 1991 and the Fisheries Administration Act 1991 will clarify the meaning of two important fisheries management objectives. The bill will also ensure that the cooperative fisheries management arrangements between Australian jurisdictions are improved.

Firstly, the bill inserts into the fisheries acts principles of ecologically sustainable development consistent with those in the Environment Protection and Biodiversity Conservation Act 1999. The need for consistency between the fisheries acts and the EPBC Act was a key outcome of the 2003 Commonwealth fisheries policy review. The review recognised that, while the fisheries acts require the Australian Fisheries Management Authority to ensure that the management of the Commonwealth fisheries resources is conducted in a manner that is consistent with the principles of ESD, the legislation currently provides no guidance on how this objective should be interpreted. The bill will rectify this situation.

The amendments provide a more solid basis for economic, environmental and social factors affecting the fisheries to be considered in Commonwealth fisheries management decisions. Having the principles consistent with those in the EPBC Act also creates a uniform framework for decisions across the government that affect the marine environment.
In addition to inserting the principles of ESD consistent with those in the EPBC Act in the fisheries acts, the wording of the current economic efficiency objective in the acts will be restated in terms that are easier for people to understand. The existing objective will be changed from ‘maximising economic efficiency in the exploitation of fisheries resources’ to ‘maximising the net economic returns to the Australian community from the management of Australian fisheries’. This change will provide certainty to stakeholders about what this objective means.

The amendment will not change the underlying meaning of the economic efficiency objective. That is, AFMA will still be obliged to manage the effort and catch of a fishery to maximise the difference at a fishery level between total revenue and total costs, taking into account the impact of current catches on future stock levels.

This bill also contains administrative amendments to improve the operation and efficiency of the offshore constitutional settlement (OCS) fisheries arrangements and facilitate cooperative fisheries management between state, Northern Territory (NT) and Australian governments.

The OCS arrangements provide for state/NT laws to apply inside three nautical miles and for Commonwealth laws to apply from three to 200 nautical miles.

The intention of these OCS fisheries arrangements is to provide for the holistic management of fisheries—recognising that fisheries do not align with boundaries drawn on maps. More than 50 active fisheries arrangements have been agreed between the Commonwealth, the states and the NT. The FMA refers to these as ‘arrangements’ but the term ‘OCS’ is used colloquially.

The 2003 Commonwealth fisheries policy review identified inadequacies with the current OCS fisheries arrangements. The review highlighted that there is a general lack of consistency and effective cooperation on the management of some fish stocks straddling Commonwealth, state and NT jurisdictions.

It is important that our fisheries are well managed to ensure they remain productive and sustainable. This is best accomplished when a fishery is managed consistently throughout its constituent species range. If we can achieve this goal then our fisheries and, accordingly, the commercial fishing industry will have a solid base on which to grow and prosper.

The bill contains amendments that enable the government to adapt the OCS fisheries arrangements to reflect improved understanding of fish stocks and their dynamics, contemporary management issues and provide flexibility for cooperative agreements between the state/NT and Australian governments.

Specifically, the bill seeks to address a major concern held by the Commonwealth and state/NT governments, as well as by industry, that the government is unable to amend OCS fisheries arrangements. If we wish to correct any errors, clarify ambiguities or vary jurisdiction in an OCS fisheries arrangement, the original instrument must be terminated and an entirely new agreement created. This process impacts management plans, permits and other instruments which are established under an OCS fisheries arrangement. It is also inefficient, being time and resource intensive, and leads to greater uncertainty for fishers.

This bill also provides a broad, express power in the FMA to change existing and future OCS fisheries arrangements. The bill amends the FMA to give the powers to create and terminate OCS fisheries arrangements, which currently rest with the Governor-General and
state/Northern Territory governors, to Commonwealth and state/Northern Territory ministers. Approval through the Governor-General and state/Northern Territory governors is considered to be a formality and creates an additional administrative step.

The bill will also allow for a more flexible application of Commonwealth and/or state/territory law in fisheries managed by joint authorities. Currently, where the fishery involves only one state or the Northern Territory and the Commonwealth, either the Commonwealth or state/territory law must apply to that fishery. Where the fishery involves the Commonwealth and two or more states, or a state and the Northern Territory, only Commonwealth law may apply. The bill will change this by allowing state/territory laws to apply to a fishery which is managed by a joint authority involving the Commonwealth and more than one state/territory.

Australia’s fishing industry will benefit from the amendments to OCS fisheries arrangements as they will provide for better and more flexible management of Australia’s important fisheries resources.

In summary, the bill will clarify the meaning of two important objectives in the fisheries acts and support more cooperative regional fisheries management arrangements between the Australian, state and Northern Territory governments. I thank the Main Committee and present the explanatory memorandum to this bill.

Mr GAVAN O’CONNOR (Corio) (4.39 pm)—The Fisheries Legislation Amendment (Cooperative Fisheries Arrangements and Other Matters) Bill 2005 before the House today makes a number of amendments to the Fisheries Management Act 1991 and the Fisheries Administration Act 1991. In summary, these amendments include clarifying the meaning of the existing economic efficiency objective, allowing for the amending of fisheries agreements made under the offshore constitutional settlement, the OCS, and inserting an ecologically sustainable development principle consistent with the ESD principle contained in the Environment Protection and Biodiversity Conservation Act 1999, the EPBC Act. I understand that these measures have the support of state and territory governments and have the support of the industry, so the opposition will be supporting their passage through the parliament.

The provisions of this bill are broadly consistent with longstanding Labor policies aimed at ensuring that our fisheries are sustainable and that they are efficiently managed. The current legislation requires the Australian Fisheries Management Authority to pursue the objective of ‘maximising economic efficiency in the exploitation of fishery resources’. The objective has now been clarified in this amendment bill as ‘maximising the net economic returns to the Australian community from the management of Australian fisheries’. It has taken too long for the government to clarify this—the industry has been asking for this ever since I assumed this portfolio. I think we can reasonably ask why it has taken so long to put these measures in this legislation for the industry and to bring it to the floor of this chamber.

This bill also addresses concerns that the exploitation of fisheries resources be consistent with the ESD principles contained in the Environment Protection Biodiversity Conservation Act 1999. This bill introduces the triple bottom line—economic, environmental and social outcomes for fisheries—into the considerations of AFMA. This industry is very important to regional communities. There are social implications of government policies as well as substantial local and national economic impacts. If these fisheries are not managed well, we will
have an environmental problem on our hands. The long-term economic sustainability of the industry depends on the environmental management of the fisheries.

With regard to the offshore constitutional settlement provisions, it is very important that we get the highest level of cooperation between state, federal and territory governments in the management of our fisheries. Sadly that has not been the case in recent years. We know that Australia’s current illegal fishing problem, which is now out of control, is fairly and squarely a policy failure of this government.

The government has taken a high-handed approach in dealing with states and territories and indeed with the fishing community. On a lot of these issues, it has failed to take advantage of the limited available resources, particularly in the illegal fishing area. The member for Lyons, who joins me in this debate, will remember one fisheries minister that the opposition dispatched out of the portfolio for other reasons went so far in an industry meeting as to physically threaten a fisherman who disagreed with the government.

Mr Adams—In my electorate.

Mr GAVAN O’CONNOR—That caused a great amount of bad blood between fishing industry representatives and the government. Thank goodness he was removed from the portfolio for other reasons. However, I know the parliamentary secretary is far more rational and intelligent than her predecessors in this portfolio, and we have great expectations that at least some of the longstanding problems of this industry will be addressed. The opposition will support the bill. My good friend and colleague the member for Lyons, who has a deep and abiding interest in this industry, will expand on many of the views and points of the opposition in the context of this debate.

Mr ADAMS (Lyons) (4.43 pm)—As has been said, the Fisheries Legislation Amendment (Cooperative Fisheries Arrangements and Other Matters) Bill 2005 gives effect to the recommendations of the 2003 Commonwealth fisheries policy review and to work done by the Natural Resource Ministerial Council. I am speaking on this bill because I want to highlight some of the problems Tasmania has been facing recently with the negotiations on the maritime protection areas, the MPAs, which are covered under another piece of legislation which deals with sustainable development.

This bill talks about the economic efficiency principle. There has been concern for some time among commercial fishers about the meaning of the economic efficiency principle in Commonwealth fisheries legislation. Currently legislation requires AFMA to pursue the objective of maximising economic efficiency in the exploitation of fisheries resources. This has led to some confusion and a number of court cases. Some commercial fishers have read the objective as requiring AFMA to maximise returns for the fishing industry rather than to maximise net returns to the whole of the Australian community, as was originally intended. The objective has been reworded in this legislation to ‘maximising the net economic returns to the Australian community from the management of Australian fisheries’. However, this is still a little ambiguous, because one would have to ask which part of the Australian community is meant.

Those who rely on fishing and the fishing industry for their living are those who buy and eat the fish or those who spend a lot of time worrying about whether there will be any fish left in the sea to catch and eat. To my mind, there are some difficult priorities here, and, once we
start trying to legislate between them, we are going to run into trouble. The key word here is ‘management’; if that is correctly spelt out, I believe this could work.

Obviously, we want to have economically sustainable development—ESD—of our fisheries. However, outcome 3 of the 2003 fisheries review found that, while current Commonwealth fisheries legislation requires that fisheries are managed in a way that is consistent with the principles of ESD, there is no legislative guidance on how this objective should be interpreted. It is believed that this concern is addressed in this bill by including ESD principles consistent with those contained in the Environmental Protection and Biodiversity Conservation Act 1999, the EPBC Act.

AFMA was required, in its management of the Commonwealth fisheries, to attempt to balance the triple bottom line of economic, environmental and social outcomes for fishers. In Tasmania, we know this as the three-pronged stool. It is an approach that we have used in forestry; it has been effective as long as there are no wild interpretations or misinterpretations of the concept.

Finally, we have the offshore constitutional settlement, the OCS proposal. The offshore constitutional settlement is the jurisdictional arrangement between the Commonwealth and the states and territories which sets out responsibilities for offshore fisheries, among other matters. The OCS provides for state and territory law to apply inside three nautical miles and for Commonwealth laws to apply from three nautical miles to 200 nautical miles.

It is here that we in Tasmania are having a problem with the development of the environmental side in the maritime protection areas. The consultation has not been done. In 2003, the Commonwealth fisheries policy review highlighted a number of concerns about the operation of fisheries agreements under the OCS and noted that there is currently no provision for the amending of fisheries agreements. This bill will allow for the amendment of fisheries agreements without having to terminate the original instrument and create an entirely new instrument.

In addition, this bill will allow for the management of multijurisdictional fisheries under state or territory law, where appropriate. At present these fisheries can only be managed under Commonwealth law, even in cases where it is entirely appropriate and sensible that they be managed under the law of a state or territory. Now we are told that, in future, when states, territories and the Commonwealth are involved in regional fisheries, they will jointly decide which party or parties will have legal jurisdiction to that fishery. In practice, this will work by defining areas within the fishery to which each law would apply. The areas would be adjacent to each other but could not overlap. This is fine in principle, but it seems that with this legislation we start getting overlays that appear to take precedence, such as with the Environmental Protection and Biodiversity Conservation Act 1999, which comes under the federal government, as it arbitrarily sets up these maritime protection areas without consideration of the economic returns to the Australian community.

Management is one thing but prohibition of fishing is another, and that is what is being proposed in Tasmania by the habitat protection zone that just happens to have popped up in our east coast fisheries through other legislation. And it is not only on the east coast; the south-east fisheries and the west coast fisheries are being targeted too.
All this so-called negotiation has been going on with who knows who, where few details have trickled down to those who are most affected—the fishers and their families. Suddenly they are faced with what appears to be a decision without any consultation whatsoever. It appears that Minister Campbell is trying to curry up some green brownie points on the carcass of poor old Senator Macdonald, who I believe was trying to do the right thing but who got the sack.

Now I want to ask some questions on all this; in fact, I want to ask a lot of questions. Firstly, what exactly have we signed up to under the World Conservation Union, the IUCN? What exactly are we trying to achieve by doing so? As far as I can make out, there are no targets for allocation of MPAs to any particular IUCN category. Under the act, all MPAs are assigned to an IUCN category and must be managed according to principles specified for each category. There is no mention of the regulations under which they are to be administered. But if there are no targets, it makes it hard for anyone to know the potential impact of the activities on conservation values as well as on economic and social values. So why are we doing it? What is going to be achieved?

Is the argument: we will lock it up and see what happens? Is that the principle that is at work here? I find this a bit like the climate change or global warming argument—this is something that has a doomsday feel about it without anyone really sitting down and going through the science to make it a rational argument. One scientist says that the ice cap at the North Pole is melting; another says that the ice is getting thicker. Plenty of work has been done but there has been no definite conclusion, which leads me to think that although we are applying the precautionary principle we should not go overboard with draconian legislation which prohibits ordinary working folk going about their chosen and often hard fought for business. Particularly in the case of maritime protected areas there is the possibility of voluntary participation together with sensible management of those areas that are still to be fished and reasonable and just compensation for those who have to give up their livelihood.

The problems are not only in Tasmania. I note the article in the Australian on 28 February this year entitled ‘Trawling for answers’. The locking up of the Great Barrier Reef has been an unmitigated disaster. The areas that can be fished have shrunk to the point where they are overfished and recreational fishers can no longer be guaranteed a catch. This has put hundreds of Queensland fisher folk out of work and is now costing the federal government millions of dollars in compensation that cannot really cover the cost of the loss of the industry. No-one had estimated what the rezoning of the reef could do both to the fishing industry and to the compensation projections. There was a mistaken prediction that the expansion of the no-go areas would only have a modest toll on commercial fishing. But no-one has done the sums or the science—we just made decisions. That is not good decision making.

Even one of the government’s own backbenchers, Warren Entsch, the member for Leichhardt, was disgusted with the outcome. He says in that same article:

We have destroyed the livelihoods of so many people, and these people are traditionally the eyes and the ears of authorities...

We have to consult; we have to include people who are being displaced by this type of legislation. Compensation has to be on the table at this time, too. People cannot be expected to throw away their lifetime of work and experience for nothing. As we have proven in the forestry industry, proper management of a resource is a lot better than locking it up and forgetting.
about it. If a natural resource is not managed after it has been intensively used, then it becomes more of an environmental problem than one that is sustainably harvested.

Mr Katter—Hear, hear!

Mr ADAMS—I thank the honourable member for Kennedy for his support. If there is a case of environmental degeneration in one area and it is affecting the sustainability of an area, rest it for five years, like we do with our scallop decks. Explain what is going on and why this is so to the fishing people and they will join in and make sure that the site is properly rested because it is in their interests to do so. But to legislate it away forever is just plain stupid.

According to a fact sheet put out by the federal government, public input is an essential part of the development of our new marine protected areas. The document goes on to say that consultation with stakeholder groups has been a feature of the development of a set of candidate MPAs. I wonder who those stakeholder groups are, because the people I have talked to and those who are really concerned about their livelihoods have not discussed it and have heard sweet diddly-squat about this very matter.

It seems that the same thing has happened in Queensland. Many areas have been declared and no-one is owning up to having done the research on the exact locality. No—more likely no-one knew anything about it because they did not consult with the people whose livelihoods were affected and who have been fishing in those areas for a long time.

According to later reports that I have scrounged from various sources—including the library, which seems to keep all the documents; I suppose that is their role—it appears that all this paperwork and research is only a draft; that consultation has to begin, that nothing is set in concrete and that there is still an opportunity for people to comment. All I can say is that a hell of a lot of work has been done perhaps to no end and that people in regional Tasmania that have any interest in sea fishing whatsoever should now get up and state their case as to why and where MPAs should exist, how they should be managed and whether we need them at all.

This government needs to know it cannot keep on making decisions that affect regional people and their work without consulting them. Tell it we want our fisheries controlled by us. Once the fisher folk are kept out of areas, it leaves them wide open for other fishermen from other countries to just wander in to help themselves—and we have heard about this. We just do not have the resources to mind ‘parks’ without any return.

Warren Entsch has reminded us again today in that very article in the Australian that we are unfortunately now seeing the void created by the forced eviction of Australian fishing families from those waters being filled by illegal fishermen from Indonesia and other foreign countries. It is pointed out that at the top-end of Australia there have been several boats from Indonesia in there fishing where Australian fishing used to take place. In the past, fishing boats have provided a good network of information and are our first line of defence against our fisheries being plundered. Now some idiot wants to lock up the sea to us and open it up to the world. Our usual voluntary patrol mechanism has been decimated. I am afraid that is not what I see as environmentally sustainable. I think we should think again.

I am going out into my electorate to tell all the fishing people—and my electorate contains a hell of a lot of the fishing grounds of Tasmania—how they can have a say in their future and, if they are not happy with the present government, how they can change it. As for this

MAIN COMMITTEE
bill relating to cooperative fisheries management, let us get some sense into maximising the
net economic returns to the Australian community from the management of Australian fisher-
ies. Unless there is considerable understanding of what it means to lock up areas, there will be
no net economic return to the Australian community, because management will not be
achieved properly and resources will not be there to police our locked-up sites.

I would like to see a regional fisheries agreement with Tasmania that takes in all these arg-
uments and looks to see how we can help the renewal of the industry, with funds put aside
for research and development, along with the full cooperation of all those in commercial fish-
ing, to lay down a blueprint for our industry. Let us forget about all this other ‘greeny’ mumbo
jumbo. That is not doing anything for anybody. It is doing nobody any favours. Throwing
money as compensation does nothing for our industry or for our people, who should be able
to continue a viable fishing industry. We want a properly thought out, researched and sustain-
able fishing policy that allows commercial and recreational fishers to continue to provide
Australians with some of the best fish in the world to eat and some of the best game fishing
while also providing the fisheries authority with detailed information on what fish are about
and who is fishing for them. And that is not to mention their role as guardians of our offshore
areas and their unofficial ability to patrol our seas for illegal intruders and rogue fishers. This
legislation must take into account the real cost of locking up water or land, and we must know
exactly what is going on and what is going to be achieved before we enact legislation.

Mr KATTER (Kennedy) (5.01 pm)—In rising to speak in the debate on the Fisheries Leg-
islation Amendment (Cooperative Fisheries Arrangements and Other Matters) Bill 2005 I do
so as someone representing one of the areas hardest hit by what will be looked on by future
generations of Australians as an appalling series of decisions. Recreational fishing is a very
important industry in the electorate of Kennedy. The town of Lucinda, which, as you would
be aware, Mr Deputy Speaker Lindsay, is north of your own electorate, burgeons to an esti-
mated population of 2,000 people during the winter season. I meet many of them in the little
supermarket in Lucinda and they tell me that they are there for the fishing.

This government cannot resile from the responsibilities of office. I find it extraordinary that
people can come into this place, and into other places, and represent themselves as something
entirely separate from the government. If you want to disempower people then you tell them
that they have no power or influence. The Great Barrier Reef Marine Park Authority is an or-
ganisation known over a long period of time for its deceitfulness. If it is trying to make
amends of late then it has left its run very late. The authority told us that it was going to close
15 per cent of the Queensland coastline but it also said: ‘Relax; don’t worry. It’s not locked in
concrete.’ You were at one of the meetings, Mr Deputy Speaker, when we were told that it is
not locked in concrete. Some 6,000 people in North Queensland attended the public meetings.
They said, ‘Don’t do this.’ Well, the authority did not close 15 per cent; it closed 32 per cent.

If there was the remotest justification for this, it would be that we were protecting these
fisheries for future generations of Australians—or for the trees. The greenies seem to hate
people and do not want people to be here, so I presume that it is for the bioecology of the
area. Whatever the justification may be, we have reduced the number of licences, in addition
to the closure of 32 per cent of the marine park, which is effectively the whole of the Queen-
sland coastline. So in that area from five kilometres off the coast, to 200 kilometres from the
coastline of Australia, we have reduced the number of licences to about 6,000.
I do not often get to watch television in the early hours of the evening, but I most certainly dug out of the library a recent recording of 60 Minutes which featured a report on that poor naval commander. I do not know where he has been sent to—he is probably tendering a boat on Lake Eyre at present. From that report we discovered that, whilst only 6,000 Australian fishing vessels are allowed in our waters, last year 8,000 foreign vessels had been sighted in our waters. So, whilst only 6,000 Australian vessels are allowed in our waters, we know—because we have seen them—that there were 8,000 foreign vessels in Australian fishing waters. If 8,000 were sighted, there would most certainly be around 20,000 vessels in our waters. So it is very good that we have excluded Australians—recreational fishermen and commercial fishermen—from our waters! It is wonderful! The foreign countries that are enjoying those waters and taking huge fish harvests from them must be saying, ‘What a bunch of fools those Australians are!’

I had discussions with GBRMPA and, as I have done on many occasions in this place, I stated what GBRMPA’s position is. When I met with them, I said: ‘You are going to take away the livelihoods of some 2,000 Queenslanders—most of them North Queenslanders—with these proposals of yours. Have you no heart? Have you no thought for these people? Do you just want to carelessly go out and destroy their lives?’

Apropos of this, a gentleman came into my office. He later walked up the street and when I saw him he was slumped over a table crying his eyes out, because his whole life had been taken away; it had been completely destroyed. A lady who came into our office lost complete control: she was running around screaming at the top of her voice. She was out of her mind with worry and despair. That is what GBRMPA have done—they torture and torture and torture until we commit suicide, until we throw away our lives through drunkenness or until, through stress, we have a heart attack and die. They continually torture us. They do not care about human beings. They have the most callous, vicious attitudes towards these people. At the very least, 2,000 people in the commercial fishing industry in Queensland lost their livelihoods. I am not talking about the recreational fishing industry.

Then there was the little matter of theft. The anthropologists and the palaeontologists tell us that we North Queenslanders have fished those waters for some 20,000 years. No person in authority has come along in a uniform and said, ‘You can’t fish these waters.’ That only happened in the year of our Lord 1990, when people in this place and in the Queensland parliament were so arrogant that they took away from us those rights that we have enjoyed for 20,000 years.

If you want to see the result of that, come to my house in Charters Towers. I am 150 kilometres from the coast. Two of my five neighbours have boats in their backyards—tinnies. I do not hesitate to quote one of those neighbours; he and his wife are great local citizens. In fact, the park opposite my house is named after them—McCormack Park. I said to Jack McCormack, ‘I don’t notice a boat around.’ He said: ‘No, mate, we sold it. We can’t buy GPSs and I can’t read those navigational charts. I’m going to go out there and have the coppers chasing me all over the place—it’s no fun anymore.’

The little people, the ordinary people—a truckie with the council—do not have money to go overseas or to go to Surfers Paradise for holidays or to buy a house at Mission Beach. They can’t afford to go to the cinemas. They are retirees and they do not have much money. They live in a town where housing does not cost very much. This was their recreation; this was
their fun. But this government and the state government in Queensland took that away from them, thieved it from them. They paid them no compensation. They just said: ‘You no longer have that right. We have taken that right away from you. We have taken that freedom away from you.’

As young blokes, we used to go fishing down the river and go shooting, because I lived in a very inland town. But people on the coast did the same thing. Then the guns were taken off us, and now the fishing has been taken off us. What fun can we ordinary Australians have anymore? What can we do? We cannot break branches off trees in our state any more—that is all illegal—so we cannot go camping or take the kids camping. What exactly can we do in this country? These were all the things I did. I enjoyed a wonderful boyhood in North Queensland, as did many others—and there are a million of us now living in the northern part of Australia. It was said northern Europeans could never live in the tropics. We proved them well and truly wrong. In spite of it all, we are flourishing in numbers. However, I do not know whether we are flourishing in freedom.

Let me move on. This government in its wisdom signed the free trade agreement. That means that Americans can sell boats to us but, under the Jones act, we cannot sell boats to them. This is a pretty good free trade act. The Americans can sell sugar to us, but we cannot sell sugar to them. I always call it the American free trade act, because it certainly was an American free trade act. It was not an Australian free trade act, that is for certain. They have the Jones act in the United States. I strongly believe that Canada has completely ignored the WTO agreements with respect to government purchasing arrangements. The United States has most certainly ignored them, and Japan has most certainly ignored them. I would most strongly recommend that we simply ignore them, and we will use the same pretext that those people have found.

That brings me to the policing and protection of our waters. In Queensland we have a government that cannot supply electricity, medical services or water, and yet they call themselves a government. I am sorry to say that the federal government cannot defend its waters. If you cannot defend your country, then you are not a government. The government have also abrogated the control of money to the international speculators; that is a free market now. There are two important things that we gave to the federal government upon Federation. We gave them control over the money, which they have abrogated to the likes of the international money marketers—it is in safe hands, I am sure—and control over our defence.

We have two destroyers, proposed to be the defence of Australia, and a number of patrol boats that have machine guns on them. In the year of our Lord 2006, we are going to defend Australia with a dozen patrol boats with machine guns on them. Is it any wonder that there are 20,000 foreign fishing vessels in our water treating the Australian government and the Australian people with absolute contempt, raping and pillaging our waters and taking fish that should be available for the Australian catch? We have about a dozen of these patrol boats, and we are proposing to have two destroyers. For the information of the House, in the war between Argentina and Great Britain, the Argentines had five Exocet missiles—just five, like the fingers of one hand. With those five Exocet missiles, they took out two destroyers. So, if one of our neighbours happens to buy themselves five Exocet missiles, I think we can fairly safely say there will be no Australian Navy—and those missiles were mark 1 missiles.
There may be members here who attended the briefing by the head of the missile program in the United States. When some imbecile asked him, ‘What about a threat from a low-technology country?’ he said, ‘What would you consider a low-technology country?’ I burst out laughing, because there are no low-tech countries now. Those countries are sophisticated. But he said, ‘If you are thinking of Indonesia as a low-tech country, they have contracted to buy the Exocet mark 3.’

It was the Exocet mark 1 which took out the two destroyers in the battle with Argentina. This is Exocet mark 3, which has much more ability to evade and invade the interception systems of our boats—not that our current Navy, with its patrol boats, has any interception capacity. There are some frigates too. They are a little bigger than a patrol boat but not much bigger. Indonesia had contracted to buy the mark 3 and their economy collapsed, but they most certainly will be buying the mark 3 in due course.

I suggest that we look at countries like Israel, which are able to defend themselves against overwhelming forces because they have a commitment to it, an intelligent determination to protect their borders and to protect their people. I suggest to the government in the strongest way that I possibly can that they purchase for themselves 100 patrol boats with guided missile capacity—which the current patrol boats do not have—and with interception capacity. The guided missiles are very cheap—$5 million for a patrol boat. Interception capacity is not; it is $35 million a patrol boat. I suggest they also buy helicopters so that they can see as far as they want to. You can go 400 or 500 kilometres over the horizon with radar, and that is in just about all types of weather. If you do that then you will have an adequate coastguard system for Australia that can police our waters and remove those fishing vessels currently violating our waters.

For those of you who like reading history books, I recommend that you read a bit about the history of Texas. The Mexicans felt that it was all right to allow the Americans to come in there. Then they woke up one morning and found that there were a hell of a lot more Americans in Texas than there were Mexicans. The Americans said, ‘This belongs to us now, not you.’ When they had a fight about it, the Americans won because there were a hell of a lot more of them than the Mexicans.

If someone else controls your waters then you have to decide whether or not they own them. If they happen to be very big, as our neighbour happens to be, and if about 100 million of them are going to bed hungry—of their population of 200 million it is estimated that some 80 to 100 million are going to bed hungry every night—it might be that they have a fairly moral sort of an argument for coming into our waters. It might make them very angry indeed when we start to try to eliminate the 20,000 boats that are out there, some of them owned by very influential people in that government.

We have a saying in the bush that good fences make good neighbours. It is about time that this government did some fencing. If we want to apprehend them, why are there 8,000 vessels? Those who watched 60 Minutes would have seen the bloke on the patrol boat, the naval commander, who called out through a loud hailer in English to the Indonesian fishing boat: ‘Halt! Heave to. We are boarding you. You are in Australian waters.’ The Indonesian, it appeared to me, gave him the equivalent of the two of the valley, as we call it in North Queensland, and took off into international waters with the Australians trailing along behind. This is farcical! You might say it is difficult to deal with. No. We lead the world in corralling fish.
down off Port Lincoln. You simply drop a cable off behind with buoys on it and you surround a vessel with that. If he crosses that it fouls his propeller, so you can easily capture these vessels.

But there is no commitment to this because there is no coastguard. There are patrol boats and naval officers but they do not want to be cast in this role. We need a serious coastguard, and I think that one of the reasons this government has shied away from that is that it was suggested by the opposition. The opposition proposed it for just one purpose: apprehending fishing vessels or smuggling—having that sort of role—but with no defence role. But to put out the money on 20 or 30 patrol boats when they cannot effectively defend us would be an act of criminal stupidity. Surely you would use those patrol boats to work in a defence role. If they throw out half-a-dozen Exocet missiles and take out half-a-dozen boats, if there are another 60 or 70 patrol boats there all throwing missiles at them, it will not be a lot of fun for anyone who tries to take our waters from us. Good fences make good neighbours and that is what we want to have in the relationship with our neighbours.

Those vessels can be built in Australia. Yes, they will cost about $8 billion over 10 years. That is a lot of money, and I do not like to get up here and say that we should spend this money without saying how we get so much money. Arguably, we have the longest coastline of any country on earth, so we have a right to a huge customs duty of 10 per cent primage charge on everything coming into this country. Billy Wentworth—no fool, one of the finest intellects to set foot in this place—constantly advocated that sort of tax, a simple 10 per cent charge on everything coming into our country. We are entitled to it. It does not breach WTO regulations and it will pay for those patrol boats. In addition, we will have a technological industry in this country, which we do not have now. We have no manufacturing left in this country, but suddenly we will become the leading small boat builders in the world. We will protect our waters. Finally, give us back our waters. Give back to Australians our waters. (Time expired)

Ms BURKE (Chisholm) (5.22 pm)—I want to thank the honourable member for Kennedy for his rather loud but I think very informative speech. There are probably not too many times that I am going to be in fierce agreement with the member for Kennedy but I am on this occasion and would like to echo his concerns that fences make good neighbours. I am speaking to the bill before us, the Fisheries Legislation Amendment (Cooperative Fisheries Arrangements and Other Matters) Bill 2005, which seeks to clarify certain things about the meaning of ‘economic efficiency objectives’ and also to insert an ecologically sustainable development principle consistent with the ESD principle contained in the Environment Protection and Biodiversity Conservation Act. It also allows for amendments to the fisheries agreement to remain under the offshore constitutional settlements. While these are all good things and the Labor Party are supportive of them, they are irrelevant if we do not know what fishing catch is being taken out of our waters by illegal fishers. We are asking our fishing industry time and time again to reduce its catch to ensure that our stock is sustainable and to ensure that the biodiversity of our waters is maintained, and they are happy to do that.

I was in Broome last week meeting with the Western Australian fishing industries and with the many fishermen who are there. They were also meeting that day with various representatives of the state government to determine what their catch would be for the next year. They had agreed to take a reduction in their catch. As I say, they were happy to do that. It will cost them; it will hurt them in some regards, but they realise that if they do not have a sustainable
catch they do not have a catch. It is fished out; it is no longer there. But they said, 'Why are we taking a reduction time after time after time when we have no idea what the stock is because it is being raided and taken illegally, predominantly by boats coming down from Indonesia, and the government is doing nothing about it?'

It was fascinating at question time today that the foreign minister got up and said he had recently been to Indonesia to have talks about joint patrols with the Indonesian government. Funnily enough, the previous fisheries minister, Senator Macdonald, who has gone by the by because, I think, of his total lack of action with regard to illegal fishing, also said he had been off to Indonesia to have talks with the Indonesian government and they were going to have joint patrols. That is well and good. It is a long time overdue. Something should have been done. But it is not just about joint patrols. Where was the discussion about the MOU box off the northern coast and particularly off the top of the Kimberley? Where were the discussions about where that box begins and ends? The illegal fishers coming down from Indonesia are saying: 'We were in the box. We thought we were in the right space.' Where was the discussion that was needed about defining where that area is so that it is clear, or saying that it is time to renegotiate that whole thing, that it is no longer traditional fishermen coming in and out of our area? The illegal fishing operation coming into our waters is actually very commercial, very high tech and very well resourced. We can have these measures as introduced in this bill. We welcome them and they should be done, but they are totally and utterly irrelevant if we do not do something about people plundering our fishing stock illegally. They are continuously coming down here and taking our fish and nobody is doing anything about it.

In Senate estimates last week we learnt that, in 2004, 9,600 boats were sighted. In 2005 that went up to 13,000—an increase of 35 per cent. And how many boats were picked up? Somewhere in the order of 400 to 600 boats were picked up. A fraction of the boats sighted are being picked up. A large number of those boats are, as opposed to being taken and destroyed, undergoing what is known as forfeiture. The boat is not taken and destroyed. Whoever has picked it up—be it Customs or the state fisheries—takes their fishing equipment and allows the boat to head on its merry way. Funnily enough, they probably head back to the mother boat, get another load of fishing gear and then go out plundering our waters. There are recidivists who are being seen coming in, time and time again, through the boats, by captain and crew. They are coming back to the Kimberley, back into Broome. Everybody is getting to know who these individuals are, but there is no database about who these people are. There is no consistency; there is no coordination.

This government can talk all it likes about sustainability, economic efficiency and biodiversity, but if it is doing nothing about the illegal fishing issue this will be meaningless. This will be completely and utterly meaningless.

Talking with the fishermen in Broome was very eye opening. Two things were clear. They want to preserve their industry. They love their way of life; they enjoy it. It is generally a family business, passed down from father to son—or, in some cases, from father to daughter—and on and on it goes. They enjoy what they are doing and on the whole they can make a livelihood out of it. But it is getting harder and harder, with the restrictions, with the cost of fuel and et cetera. So they are worried. They want to maintain their industry; they want to do the right thing by their industry. But if the government is not doing anything to protect their industry they have no industry.
The other thing they are very concerned about is their own personal safety. Out at sea, it used to be a situation where it was all kind of nice. The Indonesians—the traditional fishermen—would come along. But it is all getting a bit aggro out there on the sea. One man said: ‘What is my legal requirement on a boat? Where do I stand in regard to my crew? What is the legality about safety for me and my crew in our workplace? Our workplace may be a boat in the middle of the ocean, but it is still our workplace. How do we protect ourselves?’

The majority of these boats out off the Kimberley and off the Northern Territory are fishing for shark. They are legally allowed to carry firearms. If you get a fairly large shark on board that has not died, the only way to deal with it is to shoot it, so they are all carrying firearms. It was constantly said to us when we were on this visit, to Broome, to Perth and then further up to One Arm Point, that it is not a matter of if an incident with a firearm occurs or if a tragedy occurs at sea; it is a matter of when that is going to occur at sea.

They are very nervous. They are very scared about an incident occurring. The illegal fishermen are getting more aggressive. They are getting better stocked and better equipped and they are becoming more protective of their catch and are set on not being caught. So we have got a whole lot of Australia fishermen at sea feeling very insecure and very vulnerable and worrying about their security and their livelihoods.

It was quite extraordinary that these individuals that we met in Broome were all trying, through their industry associations and their various networks, to do something to maintain their industry. But they also turned around and talked about what they could actually do for the Indonesians to ensure that they had livelihoods. They talked about aid programs and about discussions. But they wanted more action. They need to see more action from the government.

The Labor Party believes that this is such a serious issue that we have commissioned our own task force, because we just do not see the government doing anything about it. We have established the Labor caucus transport and maritime security task force. We are out there, we are listening and we are hearing.

Funnily enough, after we had left Broome the new minister in charge of fisheries, Senator Eric Abetz, turned up in town. There was a big fanfare—he was coming, all the press were very excited and they thought that an announcement was finally going to be made. Previously they had been told that the federal government was taking all the money out of the Kimberley, that they would lose the eight staff that the federal government is currently funding and that those staff would be transferred to Darwin—not all of them, but they were losing the funding for the eight staff. So the state fisheries body is now diverting its resources. The resources that would actually patrol things like the amount of catch and the biodiversity of the stock are now being diverted to doing the federal government’s task: patrolling the waters and catching the boats.

One of the biggest issues is that when the state fisheries, a local Aboriginal community or someone sights a boat they ring Canberra and say: ‘We’ve seen this boat. It’s sitting out there.’ Then there is a mad flurry of phone calls and nobody knows who is meant to do what, where or when. There might be a Navy boat in the waters, but their rules of engagement are so unclear that they do not know whether they should go and pick it up, shoot across the bow or do whatever. On the whole, it takes three days for someone to come out and check out the boat. Funnily enough, after the three days the boat has gone, and the boat has been so close to the shore that people in various communities have seen the boat. The issues are not then just
about the plundering of the fishing stock; there are also great concerns about quarantine and the issues of communicable diseases coming to our shores.

One of the most fascinating sessions we had in Broome was with the AQIS officer, who went into great detail about what they have to do when they actually bring one of those boats to shore. It is an amazing process of fumigating, removing food, going through the water and taking out all the water, which is contaminated with dengue. There are dengue mosquitoes sitting in the water that is then brought to shore at the Kimberley. I am not sure whether anybody here knows someone who has had dengue fever—I do; it is a terrible thing. Why do we want this brought onto our shores? The fishermen were adamant, time and time again, that they were calling on the government to do something.

So we were in Broome and Senator Abetz turned up a couple of days later and talked the talk, but he did not walk the walk. He did not offer them anything: he made no announcements and no promises. He gave them false hopes that he would maybe call a national summit. There have been discussions throughout the state governments, particularly led by John Ford, the Western Australian minister who has a huge problem on his hands in his area. He has talked to his Northern Territory and Queensland counterparts about this issue because he cannot get anywhere with the federal government. So we have a situation where the state governments are trying to take the charge. They are actually funding the patrolling of their areas, funding the security of their industry and trying to talk about a coordinated approach.

Senator Abetz then went to the Northern Territory—our task force will be going there in a week or so too—to talk to the people there, including the Indigenous communities, who are being seriously impacted by these issues. He again talked the talk but did not walk the walk. He came back to Canberra and said, ‘No, there is no need for a summit; there’s no need to get anything together.’ Prior to his visit to Broome, the member for Kalgoorlie had to fly to Tasmania to meet with the minister to say, ‘Finally, can someone listen to this massive issue in our backyard?’ As we have heard time and time again, one of the issues was: ‘Do you think that if this were happening in Sydney Harbour people would care? Is it because it’s happening at the far end of the Kimberley, at the top of Darwin and way off the top of Queensland that nobody cares? If it were over in the east, do you think people would care and worry about us? Do you think it’s because we’re not a big, sexy and viable industry that they just don’t care?’ This is an issue that is growing. It is a huge issue and it is destroying the livelihoods of so many people and more needs to be done by this government. They are sitting on their hands. The previous minister sat on his hands.

It is a tragedy today, when we have this bill before us talking about fisheries, that not one government member sees fit to speak to the bill. Not one government member has come down to talk about the fishing industry. The fishing industry operates probably more predominantly in the seats of coalition members. Where is the member for Kalgoorlie? Where is the member for Solomon? Where are they talking about their industry and the protection of that industry? I would like to know.

The task force also went to a place called One Arm Point, where I, the member for Chifley and one of our esteemed colleagues in the other place, a senator from WA, met with the phenomenal Bardi community who are operating out of One Arm Point. They are truly in the middle of nowhere. It is incredibly hot but it is one of the most stunning and magic places I have ever seen. Instead of meeting an Aboriginal or Indigenous community ground down by
CDEP and ground down by their circumstances, this is a community who wants to look after themselves and are doing everything they possibly can to become self-sufficient.

They are doing everything they possibly can to provide for their community and for future generations. They have turned back to their traditional areas. They have turned back to what they always did, which was fishing, harvesting and collecting a thing known as a trochus shell. I am terribly sorry that I do not have my trochus shell with me, because I have to say that it is the most stunning thing I have ever seen. It is a beautiful thing. The trochus is generally harvested and then sold to be made into buttons—something like pearl buttons. Predominantly, the catch from One Arm Point is shipped to Italy. Last year they made $85,000. That might not sound a lot to us, but for a remote Indigenous community it was an enormous amount of money. And they did that off their own bat—without any support.

They are hatching the trochus on shore, so they are creating and regenerating their reef, which has been plundered by the Indonesians. The Aboriginal community up there has put a limit on their catch so that they will not destroy their reef. They have a limit on bag catch, a limit on size of shell and a limit on what they do. They are very responsible about this. They harvest their own shell and then go out and reseed the reef. But what do they find? When they get out there, they discover the whole lot has been plundered again by Indonesian fishermen—the whole lot has been taken. That is theft, by anyone else’s standards. If it were happening in our backyard, we would be jumping up and down in outrage. But, because it is a remote Aboriginal community, it seems that nobody cares. These people have spent an enormous amount of time, energy and heartache to produce this beautiful trochus and create an industry that is sustainable. They want to take control of their own destiny, get off CDEP and move to where they are sustainable. They want to be able to go to the bank and say, ‘Lend us the money, because we’ve got a viable business and we want to do it.’ But we are not protecting these shores, these waters or their livelihood.

To understand this situation, one needs to know that the trochus must be collected. You have to get onto a reef, get down on your hands and knees or swim around and snorkel. So the boats from Indonesia must actually land on our shores. They are landing on our reefs. That is how close they are getting. Twenty-five people at a time get off, harvest the trochus and get back on the boat—but they stay there for a couple of days. So they arrive on our shores, in Australian waters, and plunder the livelihood of the Bardi community. They are also bringing with them their diseases and their food—which may have other diseases—and we do not care. We have done nothing about it. The minister has done some gladhanding and the previous minister did some burning of boats and did a bit of media, but we have not actually seen any action. We have seen nothing concrete take place—and we have this enormous increase in boats coming to our shores.

To give you an idea of the cost of this, a recent report by the Western Australian government says:

The increasing number of incursions, combined with the growing marketability of key target species (mostly sharks for fins) points to a highly organised commercial system. Heavy fishing pressures and the loss of marine habitats in Indonesian waters have made fishing in the AFZ increasingly attractive. Returns from illegal fishing are high when compared to those available to villagers in eastern Indonesia. With a ‘beach price’ return on catch of about $120AUD per kilogram for shark fin, only about 5 kilograms is required to cover the costs for a fishing trip (generally one large shark). In general, this can
easily be achieved in the first day of fishing. The replacement cost of a boat by an indentured fisherman (approximately $5,000AUD), should the fisherman be unlucky enough to get caught and lose the boat, is the equivalent of 40 kilograms of dried shark finance at ‘beach’ prices. High quality fin is on-sold by owners for $250AUD per kilogram (wholesale) so for them the replacement cost of a boat is 20 kilograms of shark fin.

So you are talking about big money. We are talking about big, organised money. If the poor villagers from Indonesia who come on these boats are taken and, in some cases, put in jail here for six to 12 months or put in camps and deported, it does not hurt the organised criminals. Nor does it hurt the people who have created these boats. We were given examples of one fishing village in Indonesia where 20 of these boats are turned out each day. They just keep producing them.

Recently, a very large vessel, the Chang Long, was taken in Indonesia. It was a large vessel with ice on board, what they refer to as a ‘mother boat’. It was a very large boat sitting in the middle of the water and the smaller boats would come to it. We are talking about organised criminal activity. We are talking about fishermen losing their livelihoods because the Australian government is doing nothing about this organised crime.

It is all very well for the foreign affairs minister to state in question time today that he has gone and had a chat with his counterpart in Indonesia about patrols. What is he doing about having a chat about the illegality of the syndicates in Indonesia? Where is he having the discussions about the illegality of these boats coming to our shores? They seem to have been able to have a chat when illegal people smugglers were coming in—they seem to have done a lot about that—but they do not seem to be caring about the people within the fishing industry.

Whilst Labor is supporting this bill today because it does go a way to protecting the viability of the fishing stock and our biodiversity, if we are doing nothing about the incursion of illegal fishing then why bother? In some respects, why bother? As the fishermen in Broome said: ‘We can reduce our stock and we can do all the right things, but if somebody else is coming and taking it illegally we have no way of protecting that. We have no way of controlling that. Our livelihood has gone and we have borne the pain for no reason.’ So while this bill will help in some measure, unless something is done about illegal fishing it is pointless. (Time expired)

Mr PRICE (Chifley) (5.42 pm)—I certainly support the remarks of the honourable member for Chisholm on the Fisheries Legislation Amendment (Cooperative Fisheries Arrangements and Other Matters) Bill 2005. I am interested that we are changing the objective to ‘maximising the net economic returns to the Australian community from the management of Australian fisheries’ rather than, as it is today, ‘maximising economic efficiency in the exploitation of the fisheries resources’. The size of the industry is about $2.2 billion. As the honourable member for Chisholm has said, we visited Perth, Broome and One Arm Point and talked to a range of people about the illegal fishing problem.

But I do not want to call it an issue of illegal fishing: it is really an issue now of international organised crime. There is a big difference. Traditional fishermen have been coming down our coasts, and we have tried to prevent them. There have been previous programs of going to those specific villages and encouraging the fishermen to do the proper thing. The fishermen are not coming from those villages anymore. These boats are being financed and crewed from different villages.
Last year there were 8,000 sightings of these boats, a product of international crime. The latest figures indicate there were 13,000 sightings. Members of the opposition side have been bashed by the government about illegal boat people coming to Australia. The number of fishermen under the international organised criminal syndicates coming out of Indonesia exceeds the number of boat people many times. As the honourable member for Chisholm has said, they are actually landing on our coast and this government is completely unconcerned about it. It is a problem that is a decade old—10 years old—and I might say that 10 years is how long the Howard government has been in office.

Dr Emerson—Ten long years!

Mr PRICE—Ten long years! The boats are faster, and today they are coming in starbursts. What that means is that they come in groups of 30 so that if they are intercepted they can disperse and escape. The best the government can do now, 10 years on, is to say that we are having talks with the Indonesian Minister for Foreign Affairs and that we might be able to have an Indonesian patrol boat and an Australian patrol boat trying to intercept 13,000 illegal boats coming to this shore. This is an absolute scandal and disgrace.

I will talk about the pearling industry, which is at risk. Why is it at risk? It is the last wild harvest pearling industry in the world. What we have there in Broome and on our northwestern coast is unique in the world. Every federal member, not just those who come from that area and are supposed to represent it, should take pride in the pearling industry. Darwin Harbour has already had a strike of black stripe mussels. It cost the authorities $3 million to clean out Darwin Harbour. I say to the parliamentary secretary and the officials: what are you going to do if black stripe mussels hit our pearling industry? It is a world renowned industry, and Australia, through great entrepreneurs, is adding value to the industry as well. That industry can be wiped out because of your indifference to the threat that these 13,000 boats represent.

The honourable member for Chisholm mentioned One Arm Point and the Bardi people. Their entrepreneurial spirit, I thought, was refreshing. They said—not as eloquently, perhaps more bluntly—that they just wanted to be free of government interference. They wanted to be able to get on and manage their own lives.

Like the honourable member for Chisholm, I wanted to bring home a trochus shell, because I had never seen a trochus shell before. I did not have any idea of its size or, when polished, its beauty. I agree with everything that she said. This community at One Arm Point, with not one lousy dollar out of the environment budget, are re-seeding the reefs that the Indonesian fishermen are completely stripping of trochus shell, whether full sized, medium sized or undersized—and anything else that is on the reef, such as clamshell or turtles. They are stripping everything bare. They have wrecked their own reefs. But there you have an Aboriginal community investing their CDEP money, $30,000 each year, in hatching trochuses and re-seeding the reefs. Not one Commonwealth dollar is going to that, which I think is an utter disgrace. But congratulations to the community.

It takes three years, once you put it back on the reef, for a species to regrow. We and the Bardi people cannot keep up with the way that the shells are being ripped to pieces. Sooner or later there is going to be an international incident. The community is not going to put up with it. If the government refuses to protect Australians, Aboriginal communities on the coast of Western Australia will take matters into their own hands. This is not a prediction; I regret to
say that it is a promise. That is why I appeal to government members: do not be indifferent, do not be lethargic and do not be inert. Please do something to protect our heritage and their heritage.

I concur with what the honourable member for Chisholm has reported to the chamber. We heard a fisherman saying, ‘I fought in World War II so that we could have safe workplaces all over Australia.’ He was an ordinary sort of a guy. He was pretty impressive because he was a genuine Australian. He said that there is going to be a shooting incident, because Australian fishing boats are already being boarded. I am not predicting that they are going to be boarded; they are already being boarded. Wouldn’t you think that that would ring alarm bells amongst the coalition? Sadly, no. He said that it will not be a case of if; it will be a case of when. I think that that is really terrible.

It is true that the government does intercept some of these boats outside the coastal waters. Do you know what they have? They have what they call a ‘catch, kiss and release’ policy. I think it is dedicated to Rex Hunt, who has really pioneered it! What they do is catch the boat and they say: ‘You naughty fellows! We’re going to take your fishing gear off you. Off you go, and do the right thing.’ You could not send a bigger and clearer message to these people: ‘Come back.’ You could not say more clearly to those people who are financing this international organised crime of illegal fishing: ‘It’s risk free. All you’ll lose is your gear’—and sometimes that gear has actually been pinched off Australian boats. What is the policy, Mr Deputy Speaker Lindsay? I know you take a great interest in defence and national security matters. Let me repeat it for you. It is ‘catch, kiss and release’. It is an utter disgrace.

Sometimes your political party develops a policy and occasionally you have a couple of doubts. That is the case for me, I must say, in relation to the coastguard. But if anything has convinced me of the utter need for an Australian coastguard so we have boats available to intercept these illegal fishing vessels 24/7—that is 24 hours a day, seven days a week, not just on some random defence exercise or having one Indonesian patrol boat and one Australian patrol boat—it is this issue of illegal fishing. Of course we want to get the Indonesians to pressure those fishermen who are coming. But I say with great respect to the parliamentary secretary: you really need to crack down on the financiers. You will always be able to source cheap Indonesian fishermen. I do not mean that pejoratively, but they are very poor and of course they are only too willing to try to earn a dollar or two. If you really want to close it down, go for the financiers; and the first thing you need to do is stop this ‘catch, kiss and release’ policy. You actually have to make it difficult for those who are financing these boats. The loss of the gear is utterly and completely inadequate.

There are a couple of other things I want to say. If you are an Indonesian fishermen unhappily incarcerated in Broome and you have any medical problems that cannot be solved locally—and they do put great stress on local health systems—you will be flown to Perth, where a medical problem will be attended to. Or if you have a dental problem—some problem with your dentures, for example—it will be attended to. If you are a local Broome resident you might not be able to get those fixed. But if you are an illegal fishermen, don’t worry; the Commonwealth will fly you down to Perth with a guard, get your dentures fixed, get a tooth pulled, get a filling done and then bring you back. I am not saying we should not have humane treatment of these people who are paid to crew these boats. It is just a pity that some of
the dollars that you are prepared to put there you will not put into detecting and capturing more, and killing the trade off.

In conclusion I want to make these points. There are issues for Aboriginal communities in terms of the trochus shells. They have been doing this for hundreds or thousands of years—and, gee, they are doing a good job and it would be nice to see an environmental dollar out of the Commonwealth’s purse going to encourage what they are doing in the hatchery. There is the trade in sharks and also the illegal fishing of fish. There are three separate issues. Not all of them do the same thing.

One of the scariest things that was said to us was that, if you are successful in cracking down on trochus shells, if you crack down on the sharks and if you are able to crack down on the fishing, then, because this is international organised crime—and that is what it is—they will move into your pearling industry. They are flexible, they are adaptable and all four are at stake. It is an absolute blight on this country that this government has ignored the problem and will not do anything. As the honourable member for Chisholm said, the most distressing thing in going to Western Australia and listening to those people was this sense that we do not—

Mr Hunt—Mr Deputy Speaker, I want to pose a question to the member for Chifley, under standing orders.

The DEPUTY SPEAKER (Mr Lindsay)—Will the member for Chifley accept an intervention?

Mr PRICE—Yes.

Mr Hunt—I ask whether the member for Chifley endorses the agreement that the foreign minister has just come back with from Jakarta this very day in relation to joint cooperation between the militaries and joint cooperation between the two countries.

Mr PRICE—Mr Deputy Speaker, if the parliamentary secretary had courteously been listening to all my speech, he would have understood that I had already covered that aspect. But I extended the courtesy to him of allowing an intervention.

The worst aspect is that people on those coastal areas, whether they are the fishermen or the Aboriginal communities, think that we on the east coast are indifferent to the problem and do not care. I want to place on record that I do care. It is a decade-old problem. It should be tackled. It is a disgrace that it has not been. Again, if you think one patrol boat from the Australian Navy and one from Indonesia will solve the problem, you have rocks in your head. I would love to be able to pose a question to the parliamentary secretary, but the forms of the House do not let me. In the last 10 years that Mr Downer has been Minister for Foreign Affairs—

The DEPUTY SPEAKER—Order! It would be possible for you to finish your speech and then—

Mr PRICE—I have a good understanding of the standing orders, thank you, Mr Deputy Speaker. I want to make this point. Mr Downer has been Minister for Foreign Affairs for 10 years. How many times has he or have his officials—or his embassy officials in Indonesia, in Jakarta—raised this issue? How vigorously have they been pursuing it?

Mr Hunt—I can answer that across the chamber. Numerous.
Mr PRICE—You have been terribly effective, that is all I can say, when you get a 35 per cent increase in one year to 13,000 sightings!

Let me finish. The opposition is supporting this bill. I would very much welcome a situation where we can have a further debate about this matter and on both sides of the House agree that we have made great strides in killing this off and protecting Western Australian fishermen and Aboriginal communities in relation to their livelihood and their safety—and also protecting the pearling industry. I think I will have a long wait.

Ms LEY (Farrer—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.58 pm)—in reply—I thank all those who have spoken today in the Main Committee in support of the Fisheries Legislation Amendment (Cooperative Fisheries Arrangements and Other Matters) Bill 2005: the member for O’Connor, the member for Lyons, the member for Kennedy—who I trust did speak on the bill; there was some doubt earlier—the member for Chisholm and the member for Chifley. I recognise the impassioned support that people opposite have brought to this place about the plight of those suffering at the hands of illegal fishers in Australia’s northern waters, but I do not think that the member for Chifley gave due recognition to the foreign minister’s efforts in this area and I would like to reiterate that the foreign minister has returned from Jakarta and has today launched a joint military initiative. Our departments of foreign affairs, environment, agriculture and defence are absolutely red hot on this issue. However, the matter of illegal fishing is not what this bill was about, so I want to return to briefly sum up on the bill that we have on the table.

The bill contains a number of important amendments to the fisheries act which will strengthen domestic fisheries management arrangements. It will provide increased certainty for stakeholders regarding the government’s fisheries management objectives. It will also improve the cooperative fisheries management arrangements between Australian jurisdictions, which will help ensure that effective, up-to-date fisheries management arrangements can be implemented in Australian fisheries.

The new fisheries arrangement mechanisms have been developed in association with industry—that is very important—and will be implemented on a case-by-case basis through stakeholder consultation and will be subject to the agreement of relevant Australian, state and Northern Territory ministers. The amendments to the fisheries act contained in this bill are wholly related to the management and jurisdictional arrangements for domestic fisheries. I am confident that these legislative changes will improve the general management of Australia’s marine resources and help ensure that our fisheries are managed sustainably and profitably over the long term. I commend the bill to the House.

Question agreed to.

Bill read a second time.

Ordered that the bill be reported to the House without amendment.

STATUTE LAW REVISION BILL (No. 2) 2005

Debate resumed from 13 February.

Second Reading

Mr RUDDOCK (Berowra—Attorney-General) (6.01 pm)—I move:

That this bill be now read a second time.
The Statute Law Revision Bill (No. 2) 2005 continues the important exercise of correcting errors and removing expired laws from the statute book. The corrections and repeals are desirable in order to improve the quality and accuracy of Commonwealth legislation and to facilitate the publication of consolidated versions of acts.

This parliament is very well served by the Office of Parliamentary Counsel, which provides the parliament with bills that are drafted to a very high standard. The office’s commitment to the quality of the Commonwealth statute book is also evident in the fact that this bill is one that has been initiated by the Office of Parliamentary Counsel.

I commend the Office of Parliamentary Counsel for its work in preparing the bill, for being attentive to the operation of laws on the statute book and for drafting amendments to correct any identified errors. In this way, statute law revision bills prepared by the Office of Parliamentary Counsel play a key role in ensuring the statute book is accurate, accessible and effective.

The bill proposes to correct technical errors such as misspellings, punctuation errors, numbering errors and misdescriptions of text that have occurred in Commonwealth acts as a result of drafting and clerical mistakes. The bill also proposes to repeal a number of obsolete acts that have no current or future operation. I am told that none of the amendments will make any substantial changes to the law.

The bill has three schedules. Schedule 1 amends errors contained in 14 principal acts. The kinds of errors proposed for amendment in schedule 1 are of a minor and technical nature, such as incorrect spelling, punctuation or numbering. Schedule 2 amends a number of errors contained in 19 amending acts. Many of these errors are misdescribed amendments that either incorrectly describe the text to be amended or specify the wrong location for the insertion of new text.

Schedule 3 repeals a total of 27 obsolete acts. Part 1 proposes to repeal one act which is administered by the Minister for Defence. Part 2 proposes to repeal 16 acts which are administered by the Minister for Foreign Affairs and Trade, and part 3 proposes to repeal 10 acts which are administered by the Minister for Industry, Tourism and Resources.

There are various commencement dates for the provisions listed in schedule 1 and schedule 2 because the commencement of each item is tied to the commencement of the provision that created the error. The effect of the commencement provisions is that the errors are taken to have been corrected immediately after the error was made. All other provisions commence on royal assent.

While none of the amendments proposed by the schedules will alter the content of the law, the bill will improve the quality and public accessibility of Commonwealth legislation.

I commend the bill to the chamber. I table the explanatory memorandum to the Statute Law Revision Bill (No. 2) 2005.

Ms ROXON (Gellibrand) (6.04 pm)—The opposition fully supports the Statute Law Revision Bill (No. 2) 2005. This bill is part of a continuous process to ensure that our statute books are free of errors and cleared of obsolete legislation. This bill contains no substantive policy changes. It corrects errors of a minor and technical nature and repeals legislation relating to special appropriations that are either fully spent or expired. It is a credit to our Office of Par-
liammentary Counsel that it takes the time periodically to examine our statutes for these kinds of problems.

As I recently noted here on another occasion, I believe that Australia is particularly well served by OPC, which manages to keep our legislation, especially the published compilations, in very good shape. This is not a trivial matter; it is a crucial requirement of the rule of law that citizens should be able to access and understand the laws of the land. Making sure that our legislation is free from mistakes and that unnecessary legislation is cleared from the books goes a long way to achieving this goal.

We have been fortunate in recent decades that information technology has actually brought Commonwealth statutes even closer to the people through SCALE, SCALEplus and now ComLaw, but that also makes it even more important that the law is as accessible in its content and form as it is to download. As more and more non-lawyers are going straight to the web to find out about our laws, legislators need to be even more conscious about maintaining statutes that can be easily understood without having to wade through out-of-date laws or wrestle with the meaning and consequence of minor and technical errors. Statute law revision bills are a part of that process.

I want to take this opportunity to compliment the staff at OPC and the other public servants who had a hand in preparing this bill. I am grateful for the painstaking and time-consuming work that has been done to improve the quality of the Commonwealth statutes. Labor is very pleased to support this small, noncontroversial but nonetheless worthy bill.

Mr SLIPPER (Fisher) (6.06 pm)—As is the case in an imperfect world, people make mistakes and these mistakes at times manifest themselves in various ways. Sadly, occasionally in acts of parliament the mistakes come in the form of typos, spelling errors, omissions, leftovers that should have been omitted as a result of consequent amendments, and other small nuisances.

The Statute Law Revision Bill (No. 2) 2005 has the purpose of rectifying some 80 mistakes and cancellations of acts that have been identified at this point in time in our laws. The parliament this year will consider some 128 bills, 79 that have had their genesis in 2004 or 2005 and approximately 49 from 2006. With this quantity of legislation under consideration for the good of all Australians, it is not unexpected that some minor hiccups will occur along the way.

This is not the first time I have spoken on bills of this nature and it will probably not be the last. These bills are required to ensure that our acts of parliament are as clear and as readable as was originally intended. The member for Gellibrand pointed out that many people without legal training are now logging on to obtain information with respect to the laws of Australia, and it is important that those laws be as clear and concise as possible. The errors that creep into documents are not usually found until the documents, in this case legislation, are utilised by everyday users.

This bill has been divided into three sections. Schedule 1 is designed to correct errors in what are principal acts, with the corrections to come into force from the date of the original act. Schedule 2 has the aim of correcting some misdescriptions that have occurred in amending acts, and these are errors that have occurred in the course of introducing amendments to an act. Schedule 3 enables the repeal of obsolete acts. These include the repeal of the Defence Forces Retirement Benefits Fund (Distribution of Surplus to Pensioners) Act 1976. It is, as
you would be aware, Mr Deputy Speaker, a long name for an act, and it deals with a one-off pensioner payment that is long gone. It finished as long ago as 1977.

Schedule 3 also repeals some 16 acts that were once administered by the Minister for Foreign Affairs. They deal with spending on specific programs that are no longer in place, making the acts obsolete. Subsidies were given to certain consumers between 1980 and 1985 through provisions in the Liquefied Petroleum Gas (Grants) Act 1980. That grants scheme expired in 1985, so it is no longer for the parliament to retain this act on its statute books. It will be repealed under the bill currently being debated.

Schedule 1 of the Statute Law Revision Bill (No. 2) 2005 includes 26 changes. These relate to items such as inserting the number ‘51’ in the Aged Care Act 1997 to correct a misleading reference to the Constitution, removing a subsection (2) from the Australian Federal Police Act 1979 as a result of subsections (1) and (3) being repealed in an amendment in 2000, and correcting the use of the two words ‘can’ and ‘not’ and replacing them with the one word ‘cannot’ in the Crimes Act 1914. This indicates that typos and small spelling errors are still being identified in our laws—which is, I suppose, quite concerning—some 90-plus years after the laws were introduced. Schedule 2 includes changes to amending acts, including corrections to titles, such as updating a reference in the Audit (Transitional and Miscellaneous) Amendment Act 1997 to the Public Accounts Committee Act 1951 to its new name, the Public Accounts and Audit Committee Act 1951. There are 27 such modifications outlined under this bill.

As pointed out by the member for Gellibrand, I have great admiration—as does the Attorney-General—for those people who draft our laws. But those people are not perfect. Some of the matters being corrected by this legislation are mistakes and others are matters being simply updated as time goes on. Drafting bills is a mostly unseen task. For those of us who debate the bills, it seems that they magically appear and we often do not consider how long it takes to pull together the necessary clauses in what are often very intricate and complicated pieces of legislation. Wording must be clear and precise, and this often involves considerable cross-referencing and the inclusion of definitions and explanations, and often acts have to be rewritten when amendments are passed by this House. It is a taxing and thankless job.

I have had a theory for a while that, when ministers introduce new subordinate legislation by regulation, the minister ought to surrender a similar number of words of regulation. I think, as time goes on, we seem to be ever more legislated for and more regulated. I think at one stage the Department of Finance and Administration was looking at a project whereby if a department wanted to bring in a new set of regulations containing X number of clauses or X number of words, the minister enacting these extra regulations would be required to surrender a similar number of words.

Mr Ruddock—That is a very interesting discipline. Perhaps we could pay them a bonus as well.

Mr Slipper—The Attorney has some interesting and original ideas. Maybe that might be a good way to go. Having said that, the Statute Law Revision Bill (No. 2) 2005 is not a controversial bill, and I commend it to the House.

Mr Ruddock (Berowra—Attorney-General) (6.12 pm)—I thank the member for Gellibrand and the member for Fisher for their contributions—the member for Gellibrand, particu-
larly, for her very sensible support for this measure and for the very complimentary remarks she paid to the Parliamentary Counsel, whose work I also adverted to. It is very valuable and I appreciate it. I thank the member for Fisher—who has just left—for his quite comprehensive evaluation of the bill and other positive suggestions, which I will obviously canvass with colleagues from time to time.

The first statute law revision bill was introduced into the Commonwealth parliament in 1981. This is of course a traditional measure. It continues the important exercises of clearing our statute book of minor technical errors and removing obsolete acts. All of the issues have been well canvassed during the debate. I thank the chamber for its indication of support.

Question agreed to.

Bill read a second time.

Ordered that the bill be reported to the House without amendment.

**BANKRUPTCY LEGISLATION AMENDMENT (ANTI-AVOIDANCE) BILL 2005**

*Second Reading*

Debate resumed from 7 December 2005, on motion by Mr Ruddock:

Ms ROXON (Gellibrand) (6.14 pm)—The problem of high-flying professionals who use bankruptcy to avoid tax and other liabilities first came to national attention in 2001. That was when Paul Barry, a journalist for the *Sydney Morning Herald*, published an investigation into New South Wales barristers, some of whom had been bankrupt more than once but who continued to enjoy the high life because they had put all their assets in the names of their spouses or in trusts unreachable by the tax office or other creditors. Playing catch-up, the government set up its own task force to look into the matter that same year. But now we are here in 2006, five years later, finally debating a piece of legislation that might actually deal with this issue.

However, before I discuss the detail of the Bankruptcy Legislation Amendment (Anti-avoidance) Bill 2005, I think the House deserves to hear some of the bill’s history, because it is an extraordinary tale of incompetence on behalf of the government. For five years, until now, the government has zigzagged bizarrely between nonchalance and overzealousness, never managing to steer a clear, straight and sensible path. At first the government dragged its feet for three years before producing any response. Then, in 2004, it produced an exposure draft bill that went way overboard with a disproportionate response to the problem. It proposed retrospective laws and a reversed onus of proof. That draft would also have undermined legitimate asset protection arrangements, where families divide their property so that not all family members are exposed to the business and credit risk taken by one. Bankruptcy law of course has to get the balance right between cracking down on rorters and protecting legitimate family arrangements. The exposure draft, though, got it completely wrong and a furore erupted.

Coming up to the 2004 election, the government took the antiavoidance parts of the plan completely off the table. This was a return to another period of inaction. Rather than have another try at more sensible legislation, the coalition gave up on getting antiavoidance measures right at all. The Attorney-General came back with the Bankruptcy and Family Law Legislation Amendment Bill—basically the exposure draft minus the antiavoidance schedule. Al-
though we supported that bill, Labor were very disappointed that the government would let slip an opportunity to fix the high-flyers' problem once and for all. We moved some amendments which would have gone part of the way, but the government in its arrogance refused to consider them. That was one year ago.

One year later—in all, five years too late—Labor are pleased to see that the government has accepted the approach that we advocated at that time. Finally, we have before us a bill sensibly targeting the use of bankruptcy to avoid tax and other debts. It takes the approach of strengthening existing clawback provisions, as Labor proposed through amendments last year. Clawback provisions allow the trustee to undo transactions, transfers and arrangements designed to defeat or frustrate creditors. They make it harder to hide assets.

This bill proposes four mechanisms to toughen clawback provisions. Firstly, it will introduce a rebuttable presumption of insolvency where the bankrupt has kept books, records and accounts below an acceptable standard or has not retained them at all. This is precisely what Labor proposed and the government rejected last year. That is a real shame, because these laws could have been active a whole year earlier if not for the government's pure arrogance. Sadly, the Attorney-General would rather delay reform of the law than be seen to pick up an amendment proposed by the Labor Party. A rebuttable presumption is useful because in many instances it is hard to prove that the bankrupt was insolvent at the relevant time. This introduces a new fair concept, preventing people from frustrating trustees and creditors by relying on their own incompetent record keeping.

Secondly, the bill will increase the time period for clawback for related entities, including family members, to four years rather than two. Avoidance techniques are obviously more common amongst related entities than strangers, so it is reasonable to have a longer period to inquire into the purpose and nature of transactions. Thirdly, the bill will introduce a requirement of reasonableness into the test for the clawback of transfers intended to defeat creditors. Currently, transferees are immune from clawback if they had no actual knowledge of the transferor's true intention. Under this bill, transferees will be protected only if they could not reasonably have known. This will target those cases where a person has turned a blind eye to an obvious attempt to avoid liabilities.

Fourthly, the bill will allow property to be vested in the trustee in bankruptcy in those cases where the bankrupt has paid for property on behalf of someone else but still enjoys the benefits of the property. For example, it will cover the situation where a person has put their income into a house that is technically owned by their spouse but where the person still enjoys rent-free living. This is exactly the sort of scam that allows some high-flying bankrupts to maintain a high-income lifestyle while avoiding creditors.

This bill contains three other changes relating to the admissibility of transcripts of interviews by the official receiver and corrects two possible unintended interpretations of sections 120 and 121. These are uncontroversial. Indeed, the whole bill is uncontroversial. It is a welcome set of reforms to target the high-flying bankruptcy problem. Labor will closely watch to see whether these changes actually achieve that result. The only controversy here is why this bill has taken so long. It is five years since the problem emerged. It is all the more embarrassing, given that Labor offered a large part of this solution 12 months ago, only to have it arrogantly dismissed by the Attorney-General. I might note, while the Attorney-General is here at the table, that earlier today we started debating the Family Law Amendment (Shared Parental
Responsibility) Bill. This was another case where the opposition has made some very constructive proposed amendments to the Attorney-General’s bill. I hope that he has learnt from the embarrassing experience of this antiavoidance bill that good policy sometimes means being prepared to swallow his pride and accept Labor’s good ideas the first time around. I trust that he might take that advice to heart when we are debating other changes in the House later in this week. I commend the bill to the House.

Dr Emerson (Rankin) (6.21 pm)—The Bankruptcy Legislation Amendment (Anti-avoidance) Bill 2005 is welcomed by Labor but it has been a long and sorry period of time coming forward. Thank goodness it finally has. As the member for Gellibrand has pointed out, Labor continued throughout a period of five years to provide concrete and very constructive suggestions of how the government might deal with this problem of high-flying bankrupts—very often barristers—who had been able to avoid tax and other liabilities while maintaining lavish lifestyles by continuing to enjoy property that they had put in the name of a third party, whether it be a family member or a related company. For a very considerable time the government rejected Labor’s suggestions but, in this piece of legislation, belatedly the government has picked up a large number of our suggestions. Of course we welcome that.

The legislation is indeed an attempt to cut off the use of bankruptcy by high-flyers to avoid their fair share of tax and to avoid other debts that they may have accumulated with creditors. The problem was identified back in 2001; here we are, in 2006, five long years later. Indeed, five years after a task force report, the government still had not come up with workable legislation until the introduction of this bill.

I will not go through all of the provisions of the legislation in detail, but certainly Labor welcomes the increase in the period from two to four years of clawback from related entities. By that, I mean that at present the transfer of property to an entity cannot be voided if it occurred more than two years before the bankruptcy, and the transferee can prove that the transferrer was solvent at the time. The bill before us proposes to amend this to provide for a four-year period. That means that it is more likely that the authorities can prove that these were sham arrangements with the purpose of avoiding tax and other obligations. Of course we welcome that. There is also a provision to allow clawback of property hidden in the name of a natural person. Labor certainly welcomes that along with the other provisions.

As I said a moment ago, the scandal underlying this legislation was identified as early as 2001 when barristers in particular were shifting assets into the names of their spouses or related corporate entities in order to avoid paying tax, or certainly avoid their fair share of tax, while continuing to enjoy lavish lifestyles. I have no problem if people want to enjoy a lavish lifestyle, but they should not enjoy it at taxpayers’ expense. They should pay their fair share of tax. I remember the Sydney Morning Herald, amongst other media outlets, did a very good job in exposing this rort.

I fear, though, that this is but the tip of the iceberg. I am not asserting that these very same barristers are involved in a range of other activities—I am not sure. But we do know from the most recent annual report of the Australian tax office that it has been compelled to establish what it calls a ‘serious non-compliance unit’. It says in that annual report that unfortunately there has been no shortage of work for this newly established unit. The purpose of the serious non-compliance unit is to target in particular high-wealth individuals. I have a great sense of foreboding that the tax avoidance and tax evasion that is going on here in Australia in 2006 is
no less rampant than it was during the notorious bottom-of-the-harbour schemes of the late 1970s and early 1980s.

I have been on a number of parliamentary committees where you get a window into the sorts of unscrupulous, unethical and immoral activities that many high-wealth individuals have been engaging in. For example, we conducted a parliamentary inquiry into employee share ownership plans. A report was commissioned at the invitation of the minister of the day. The idea was to examine whether the interests of employees might be aligned more closely with the interests of their employers through enhanced share ownership arrangements. But a little bit like the painters and dockers royal commission back in the early 1980s, while we were looking at what seemed to be one issue we discovered another. The issue back in the 1980s with the painters and dockers union was in fact rampant tax avoidance in the form of the bottom-of-the-harbour schemes. When we were innocently looking at employee share ownership plans, we discovered that what was rampant was the use of executive share plans—that is, company executives being able to take a very substantial, even an overwhelming, part of their remuneration in the form of share options and then being able to minimise their tax through that device.

Sadly but not surprisingly, the government members of that particular committee saw this as fairly legitimate activity and in fact proposed ways of making that activity even more attractive. But the Australian people can always be assured that the Australian Labor Party will not join the coalition in condoning and providing greater rewards for tax avoidance activity. On that occasion we produced a dissenting report, and to the credit of the Treasury officials of this country they obviously advised the Treasurer not to go down that path, not to open up new loopholes through which company executives could dive, avoiding their fair share of tax. As a result, the recommendations of the government members of that particular committee have not been picked up by this government. I said a moment ago that I am deeply concerned that we are seeing the same tax morality in 2006 as was prevalent during the notorious bottom-of-the-harbour schemes back in the early 1980s. The reason I say that is that everywhere we look we see evidence of large-scale avoidance and evasion by high-wealth individuals.

I think, as the Australian newspaper points out, that it is probably not the high-wealth individuals who are on the top marginal rate of income tax. In fact, some work that has been done by the Australian newspaper, using the HILDA survey analysis, suggests that high-wealth individuals are probably paying an average income tax of around $28,000 a year. There is no doubt that John Garnaut of the Sydney Morning Herald has unearthed, through good investigative reporting, cases of not only rampant tax avoidance but downright evasion. The government has been dragged kicking and screaming to the mark, as it was during the notorious bottom-of-the-harbour schemes, in order to do something about that.

A welcome development was reported in the Australian Financial Review today. It seems that the government might be finally getting around to closing off some of the arrangements with Bermuda—that great Bermuda Triangle into which the dollars of lots and lots of Australian taxpayers are disappearing every year. The tax havens around the world are being used by high-wealth individuals in this country. They are being used ruthlessly and relentlessly by high-wealth individuals.

The member for Hunter exposed just in the last couple of weeks, in relation to the Australian Wheat Board, the most extraordinary development—that Australian taxpayers have un-
wittingly subsidised $90 million of kickbacks to Saddam Hussein. The Howard government is the best friend that Saddam Hussein has ever had—certainly to the tune of $300 million. But $90 million of that came out of the pockets of Australian taxpayers because the AWB successfully claimed those kickbacks as a tax deduction. The government seems blissfully unconcerned about that. It sees it as a legitimate sort of activity. The member for Hunter has said time and again that these sorts of facilitation payments should not be tax deductible. Every decent, fair-minded Australian would be outraged at the suggestion that they had unwittingly contributed $90 million of the $300 million that went into Saddam Hussein’s pocket from the Australian Wheat Board.

It is everywhere you look, whether it is the Bermuda Triangle or the other tax havens around the world that are being accessed by high-wealth individuals, or whether it is the barristers who live high on the hog and then, when the tax bill comes in, declare themselves bankrupt, put their assets in the names of their spouses or some other entity and get away with it. At last, shamed by the Labor Party, after six years the government has finally gotten around to doing something about barristers evading and avoiding their fair share of tax.

No wonder Australians pay so much income tax—because high-wealth individuals do not pay their fair share of tax. A key reason for that is that this government has made the income tax system so complex. It has created in just 10 years 100 more tax concessions. In the first 60-year history of the Income Tax Act, 170 special tax concessions were created. But in just 10 years of the Howard government another 100 were created. Why? Very often it was to support tax minimisation and tax avoidance by favoured constituencies so that their accountants could dive them through the loopholes deliberately created in the income tax system by this government.

That is why we have high income tax rates in this country: honest taxpayers are paying the burden that has been shifted onto their shoulders by wealthy, dishonest Australians, most often with the full concurrence and support of this government in creating so many tax loopholes and such complexity in the Income Tax Act. The Treasurer has announced a special inquiry so that he can work out what is going on with the Australian tax system. He has had 10 long years to work out what is going on with the Australian tax system. I can tell him that this is the highest taxing government in Australia’s history. In the year 2000 it brought in a special new monster tax—the orphan tax—which is collecting more than $36 billion a year. The day it was born in this parliament, the government said, ‘It’s not ours; it’s someone else’s. It’s a state tax.’

The Commonwealth Statistician says that the GST is a Commonwealth tax. The Auditor-General says that it is a Commonwealth tax. According to the Treasurer, the whole purpose of the GST in this great tax adventure, this streamlined A New Tax System for a new century, was to fund reductions in income tax rates, yet it has done nothing of the sort. Every year this government is whacking ordinary Australians with bracket creep and using the proceeds to become the highest taxing government in Australia’s history, to provide welfare for the wealthiest people in this country. Last night, a Channel 7 story showed that millionaire couples in Vaucluse, Double Bay, Edgecliff, Rose Bay and Kirribilli are receiving family tax benefits. That is why ordinary people are paying so much tax.

Mr Ciobo—Mr Deputy Speaker, I seek to intervene to ask a question.

The DEPUTY SPEAKER (Mr Quick)—Will the member for Rankin accept a question?
Dr Emerson—I would love to hear a question from the member for Moncrieff.

Mr Ciobo—I ask the member for Rankin: does he or does he not support the GST?

Dr Emerson—Labor’s position on the GST has been set out time and time again. Everyone in this chamber knows our position on the GST. The GST is here. It is a monster tax and a compliance nightmare for small business. I would have thought that the member for Moncrieff would be more concerned about the compliance nightmare of the GST for small business, instead of standing up here defending the GST. With all those small businesses and microbusinesses in the Gold Coast hinterland, what is he going to do when he goes back to his electorate? He is standing in this chamber and saying, ‘We’ve got this GST; isn’t it terrific.’ What about the small businesses that have to bear the burden? What about ordinary Australians who have to bear the burden of an incentive-crushing income tax system with income tax rates that are much higher than they need to be for everyday, honest Australians? The tax rates are much higher for one reason and one reason only: this government does not have the guts to crack down on its rich mates, on high-wealth individuals.

In its annual report just this year, the Australian Taxation Office warned and lamented that, unfortunately, there is no shortage of work for the serious non-compliance unit. That is a bureaucratic way of saying that tax evasion in this country is out of control. At last we have one piece of legislation to deal with one category of unscrupulous high-wealth individuals—that is, barristers who hide their assets, deliberately go bankrupt and think they are home clear. At last, as a result of this government picking up Labor’s suggestions, we have legislation here in the parliament. That is great. Now I say to the member for Moncrieff, ‘Get the bit between your teeth.’ It feels good, surely, after 10 long years, and, in this case, after five years of task force analysis and recommendation, to move a piece of legislation in this parliament that ensures that at least one category of high-income earners will not be able to rort the system. But the other high-income earners are able to rort the system because this government has made it easier for them.

The government came into office with a promise to reduce red tape by 50 per cent. The barometer of red tape in this country is the size of the Income Tax Act. When this government came to office the Income Tax Act ran to 3,500 pages. It now runs to more than 9,000 pages. It has become ever more complex. It is an incredible compliance burden on honest businesses and honest taxpayers. But at the same time it is a rich harvest for those who are determined to avoid and evade tax, because it is riddled with loopholes. There is an elephant in the coalition party room and it has been encouraged to ram hole after hole in the Income Tax Act, cheered on by the member for Moncrieff, by National Party members and by those who support the aggressive marketing of tax avoidance schemes—ramming holes in the income tax system and making honest lower and middle-income Australians foot the bill.

The game is up. This government has to crack down on tax cheats. In the next couple of years it will be evident that tax evasion and avoidance is as rampant as it was in the notorious bottom-of-the-harbour scheme arrangements condoned by the then Treasurer of the country, John Howard. Three telephone books worth of advice and finally he was shamed into acting, shamed by the Australian Labor Party. And we will shame you again into dealing with the unscrupulous behaviour of the high-wealth tax cheats in this country.

Mr Ciobo (Moncrieff) (6.41 pm)—I am indeed pleased to follow the member for Rankin in this debate on the Bankruptcy Legislation Amendment (Anti-avoidance) Bill 2005. I am
pleased because I think it is about time there was an injection of some facts into this debate. I am pleased because I think it is about time there was an injection of some reality into this debate. And I am pleased because, once again, this is a bill that goes to the core of the Howard government delivering by ensuring we are providing revenue protection for government by cracking down on those who would do the wrong thing.

Before I focus my attention on the actual provisions of the bill, however, I would like to turn my mind to some of the comments the member for Rankin has made. I could not, of course, let slide many of the erroneous statements that he made, ranging from those that were completely absurd to those that were a little disingenuous. In particular, I have to comment on the Australian Labor Party saying, through the member for Rankin, that this government is the best friend that Saddam has ever had. Not only is that an outrageous assertion, but the reality is that if it were not for the Howard government and the coalition of the willing, if the Australian Labor Party had been in power, then Saddam Hussein would still be in power in Iraq today. People may ask: what does this have to do with the nature of the bill? I am interested in that question as well. The reality is that I am touching on that because the member for Rankin made a whole range of comments about it.

With respect to the Australian Wheat Board and the comment that taxpayers subsidised payments made by the AWB, we have already established that the Australian Labor Party is completely unable to draw any connection whatsoever between the knowledge of the government and the activities of the Australian Wheat Board. In fact, to the contrary, the government has clearly demonstrated on occasion after occasion that there was no knowledge of the activities of the Australian Wheat Board. Furthermore, the Australian Wheat Board’s claims of deductions under the Income Tax Assessment Act or related legislation clearly have shown that there is simply no provision under existing legislation for such bribes or payments to be allowable deductions at law. The simple reality is that if, with the passage of time, those payments are demonstrated to be kickbacks and bribes, then of course there is no safe harbour for AWB in claiming those deductions, and I am certain that they will feel the full force of the law.

With regard to the claim by the member for Rankin that the Howard government is seeking to ensure protection for tax avoiders and tax evaders, once again this is nothing but hot air from the member for Rankin. Like so much that he put forward, it is palpably wrong. What is very clear is that there are currently under legislation provisions that make it illegal for anyone to avoid or evade tax.

Despite all the rhetoric by the member for Rankin, it is simply not the case that people are able to avoid or evade their tax liabilities. That is not to say that they do not try. Of course there are many that attempt to evade and avoid tax, but those who do are generally caught. We have seen through Operation Wickenby the operations of the ATO and other agencies to crack down on those that may have avoided or evaded their tax liabilities. In the fullness of time, those that have avoided or evaded tax will feel the full force of the law and those that have claimed legitimate deductions will continue to enjoy using those legitimate deductions.

The greatest area of concern for me was when the member for Rankin said there was this monstrous tax called the GST which led to a monstrous compliance headache for small businesses around the country. There is one simple question to ask: if the member for Rankin was truly concerned about the GST and compliance, why did he, along with other members of his
political party, not support the introduction of the GST as the coalition sought to have it from
the outset?

The reality is that the compliance headache that is forced upon small businesses in this
country is a direct consequence of Labor’s obstinacy when it came to the GST. If it were not
for the fact that the Australian government was forced to negotiate with the Australian De-
mocrats to get this much-needed reform through—a reform which, I might add, the Australian
Labor Party supported in the late 1980s, and a tax which, for a while, the Australian Labor
Party said they would roll back—there would not be three-quarters of the compliance head-
aches that Australian small businesses now face. Despite all the hot air and the rhetoric from
the member for Rankin, compliance burdens are a consequence of the Australian Labor Party
being unwilling or unable to face up to reality with respect to the compliance requirements of
the GST.

I am also fascinated that the Australian Labor Party—the beneficiaries of the GST, through
their various state and territory governments, to the tune of some $37 billion per annum—say
that they are opposed to the GST. Queensland’s Premier Peter Beattie was one of the first
people to sign up to the GST agreement. With his trademark cheesy grin on his face, he said,
‘Oh, woe is me to have to sign the GST agreement.’ Yet the Australian Labor Party, through
the likes of premiers Peter Beattie, Steve Bracks and a host of other failed Labor premiers
around this country, have ensured that the GST continues to flow like rivers of gold—similar
to what the Australian Labor Party had with Centenary House—from the federal government
directly into state government coffers.

The fascinating thing is that, despite the rhetoric from the member for Rankin and other
members with respect to the GST, the Australian Labor Party still find a way to impose new
taxes on people in their respective states. In Queensland, for example, despite some $10½
billion of GST and financial assistance grants flowing to the Queensland state government,
The Beattie government introduced a new ambulance tax, despite over $10 billion of financial
assistance from the Australian government. It is little wonder then that I and the people of
Rankin, and the people of Australia more broadly, looked straight through the comments by
the member for Rankin and other Labor Party members because they know that, despite the
bluff and bluster, there is simply no substance to the arguments that the Australian Labor
Party put forward.

I would like to touch on another point raised by the member for Rankin. He alleges that
this government is the highest taxing government in Australia’s history and that the full
weight of taxation is felt by Australian families. The reality is that Australian families are bet-
ter off today than they have been at any point in our nation’s history. In particular, with the
operation of family tax benefit, Australian families today have no net tax liability until they
earn approximately $42,000 per annum. A family in Australia today can earn up to $42,000
and not incur any tax liability, thanks to the Howard government.

This is coupled with the fact that we have the lowest levels of unemployment this country
has seen for decades, the lowest level of interest rates this country has seen for decades and
super low levels of inflation—again in stark contrast to the history of the Australian Labor
Party. Despite the rhetoric and despite the bluff and bluster by the member for Rankin and
other Labor Party members, under the Australian Labor Party interest rates were at 18 per
cent, not around six per cent; unemployment was at 11 per cent, with one million people un-
employed, and not down at record lows; and the inflation rate was galloping away and not under control as it is now. The stark contrast is there for all to see. That is the reason why this government will continue delivering and the reason why I am hopeful that the Australian people will continue to support the Australian government and see straight through the sophistry of the Australian Labor Party and the arguments that the member for Rankin puts forward, which simply lack substance.

Turning my attention specifically to the bill before the chamber today, the amendments as they are proposed are intended to strengthen the Bankruptcy Act 1966. The amendments effectively allow trustees to recover property disposed of prior to bankruptcy or owned by a third person but acquired by that person using the bankrupt’s resources. Currently, bankrupts may deliberately avoid the provisions in a number of ways, including transferring assets to related entities in anticipation of insolvency, concealing records relating to the transfer of assets, transferring assets to a person who should reasonably be aware of the bankrupt’s intention to defeat creditors, or accumulating wealth in the lead-up to bankruptcy in the name of a person who will allow the bankrupt to continue to enjoy the asset despite the transfer and after the bankruptcy commences.

This bill embraces changes so that the amendments are based on the premise that gifts designed to dissipate assets, rendering them unavailable to creditors, are likely to be made to relatives and associates rather than to strangers. On this basis, the particular focus of the bill is to ensure that adequate scrutiny is placed upon those who would be beneficiaries, those who would assist those who would like to escape the clutches of creditors and those who would like to escape trustees trying to recover funds.

The amendments increase the time period from two to four years where property was transferred to a related entity during the period for less than market value consideration. Related entities would include, as I touched upon, business partners, parents, children, relatives and beneficiaries of trusts. It is also common for people to know that, because they are likely to be deemed bankrupt more than two years before the fact, you would see the structure and the execution of these kinds of arrangements. On this basis, the government has taken the view that people will readily and often know more than two years before they are actually declared bankrupt—hence the rationale for extending the time period from two years to four years.

In addition, the amendments in this bill will empower the court to make orders in relation to property or money of natural persons where, during a period of up to five years prior to bankruptcy, the person’s interest in particular property increases as a direct or indirect result of financial contributions and, additionally, the bankrupt used or derived a benefit from the property during that time. As a result of these amendments, a presumption will now exist. That presumption will operate and arise where the transferor was insolvent at the time of the transfer if a transferor had not kept books, accounts and records or they had failed to preserve them. This in effect removes the incentive to avoid making, hiding or destroying records that would demonstrate insolvency. We have often heard allegations that someone who has been declared bankrupt has carried out exactly these acts—that is, attempted to destroy books, accounts and records or ignored the accurate keeping of books, accounts and records, in the hope that they could escape the clutches of creditors.

The purpose of this bill is to overcome some of the difficulties faced by trustees when endeavouring to establish an intention on the bankrupt’s behalf to defeat the interests of credi-
tors—which is, of course, the bar set by the current legislation. The amendments will also introduce standards of reasonableness in relation to the transferee’s knowledge of the transferor’s intention in conveying property. Currently, a transferee can be wilfully blind as to whether a transferor’s purpose is to defeat creditors. Now the test will be that notion of reasonableness so that the government is able to capture those who can argue that they were not wilfully blind or who in the past argued successfully that they were wilfully blind.

By introducing the standard of reasonableness, the government will be more able to capture this kind of activity and thereby ensure people’s tax liabilities are met. A transfer will only be protected from this provision if market value consideration is given by the transferee to the bankrupt. Again, this is often a common element of demonstrating those that would be considered—for lack of a better term—legitimate transactions versus those that would be considered illegitimate transactions and done for the purposes of avoiding the operation of bankruptcy legislation.

We have seen a number of professions—and, in particular, a number of barristers—who have sought to inappropriately use their knowledge of the law and the operation of bankruptcy legislation to exploit the operation of the legislation such that they could declare themselves bankrupt on occasion after occasion and thereby be in a situation where, in effect, they are able to comply with the strict letter of the law but certainly not the spirit of the law. I am pleased that these changes are going to be introduced, because they will ensure that those who may comply with the strict letter of the law but be in contravention of the spirit of the law will now be captured by the operation of these provisions.

In essence, it means that those who have exploited the system in the past will no longer be able to do so—or, at the very least, it would be the intention of the government to make it as hard as possible to exploit the legislation. Of course there may always be some entrepreneurial people seeking to utilise loopholes, but this legislation goes a long way to ensuring that we capture those who would misuse the legislation and thereby seek to avoid their requirements under bankruptcy legislation.

In summary, this is a welcome amendment. It is an amendment that sees the introduction of commonsense and makes it easier to trace or secure creditors’ assets, particularly with the introduction of the reasonableness threshold. I must say that I was disappointed that it appeared that the member for Rankin was so poorly briefed with respect to the operation of this act that he had to make such a wide-ranging argument, touching on the operation of the GST through to the Australian Wheat Board. But I know that the people of Rankin continue to see through those arguments that are put forward. I believe that my rebuttal at the beginning of my speech more than adequately canvassed the falsity contained in the arguments that the member for Rankin put forward. I commend the bill to the chamber.

Mr LAURIE FERGUSON (Reid) (6.57 pm)—The member for Moncrieff has given a very long and highly emotional response to the question of the complicity of the current government with regard to the funding of the Iraqi insurgency. But I am afraid that he could equally be accused of plagiarism because, quite frankly, his tiresome response was the kind of contribution that we have heard from the Minister for Foreign Affairs and the Prime Minister over the last month or so—that of blissful ignorance; that they did not really know what was going on in the world and were totally ignorant and uninformed and basically out of the game.
As to the question of the OECD’s response to facilitation fees, he tells us today that, who
knows when in the future, these will not be tax deductible because they will be exposed as
bribes. That is all very well, but a government that quotes the OECD every second day of the
week with regard to the labour market, social welfare and health systems cannot then turn
around and basically dismiss so easily the OECD’s criticism of this country’s tax deductibility
for these facilitation fees. As I say, it is all very well to give us these assurances—though I do
not know what his assurances are worth, quite frankly—but, clearly, international experts in
this area feel that the current practice with regard to facilitation fees is an option for bribery.

The other point made by a number of speakers was the culture of tax evasion in this coun-
try. We were regaled in parliament today with the list of donations from trade unions. The
point I would make about those is that they are very public, much acknowledged and very
well known. However, the current government, of course, is the architect, the innovator, with
regard to the Greenfields Foundation and other related entities—and we will see attempts in
the near future to further erode public scrutiny of political donations in this country.

Is it any wonder that it has taken so long to do anything about this area of bankruptcy eva-
sion and people not paying taxes in a culture which looks at further increasing secrecy with
regard to political donations? We all know about the intention of the government to increase
the nonreportability of donations from the current level of $1,500 to $10,000. It is very con-
venient for the corporate sector that large numbers of donations will no longer have to be re-
vealed to the general public and the public will not have the ability to examine government
policy in the context of those donations. It is no wonder that we have had this growth in the
culture of tax evasion, the question most recently in the public domain with the appointment
of Mr Gerard to the Reserve Bank board and the controversy about that. I concede that for
factional reasons elements in the Liberal Party in South Australia were very active in reveal-
ing Mr Gerard’s practices. But it is a matter of concern.

The purpose of the Bankruptcy Legislation Amendment (Anti-avoidance) Bill 2005 is to
extend the clawback provisions in the Bankruptcy Act. The provisions contained in the bill are
essentially designed to diminish the possibility of bankrupts transferring assets to third parties
in anticipation of insolvency or bankruptcy. Quite clearly, the focus would be on the imme-
diate family and close relatives et cetera, because that would be the direction to which they
would turn. According to the explanatory memorandum, the legislation would:

(c) void a transfer made to defeat creditors if it was reasonable for the transferee to infer that the bank-
rupt’s main purpose in transferring the property was to defeat creditors;

It would:

(d) empower the court to make orders in relation to property or money of natural persons where during
the period of up to 5 years prior to bankruptcy:

• the person acquired an estate in property as a direct or indirect result of financial contributions
made by the bankrupt during that period; or the value of the person’s interest in particular property
increased as a direct or indirect result of financial contributions made by the bankrupt during the
period; and

• the bankrupt used or derived (whether directly or indirectly) a benefit from the property during the
relevant period.

MAIN COMMITTEE
The bill also seeks to:

(d) allow transcripts and notes from examinations under sections 77C and 81 of the Act to be used in proceedings under the Act, regardless of whether the person examined is a party to the proceedings ...

It would:

(e) clarify section 120 to make it clear that a transfer will only be protected from this provision if market value consideration is given by the transferee to the bankrupt; and

(f) amend sections 120 and 121 to make it clear that:

(vii) the amount to be refunded to the transferee by the trustee is the amount that the transferee gave to the bankrupt; and

(ii) ‘consideration’ for the purposes of these provisions is not to include any right that the transferee has given to their bankrupt spouse to reside at the transferred property ...

The key objectives underpinning the bill are:

A proposed amendment will increase the time period in section 120 from 2 to 4 years where property was transferred to a related entity during that period for less than market value consideration. Examples of related entities are business partners, parents, children, relatives ...

This approach is based on the premise that gifts designed to dissipate assets rendering them unavailable to creditors are in practice more likely to be made to relatives and associates rather than to strangers. Further, it is common for people to be aware they are likely to become bankrupt more than 2 years before they become bankrupt ...

That makes it all the worse for those people whose financial circumstances are undermined by this kind of activity. It continues:

If transfers in this period can’t be declared void, it is open to a person to dispose of their assets in a way that will leave little for creditors (eg gifts to relatives). It is appropriate to extend the bar to doing this to 4 years, not 2, because in the period between 2 and 4 years there is too much scope for a person to deliberately divest themselves of assets.

In light of recent high-profile bankruptcies linked to corporate collapses, such as One.Tel, and the difficulties faced by creditors in getting access to the assets that the directors have seemingly stashed away in a complex maze of family trusts and gifts to associates, it seems that this bill is quite important in enabling creditors legitimate access to assets that would pay for shortfalls to innocent third parties.

With the above in mind, I feel compelled to point out an issue that has been raised with my office by numerous financial counsellors working at the coalface of bankruptcies—that is, the impact bankruptcy has on the families. Indeed, it is important to keep in mind that not all bankrupts are corporate high-flyers. Financial counsellors are concerned that the reality of many gambling related bankrupts being chased for money under this amendment may have enormous impact on their families. People would understand, crucially in New South Wales, that due to the heavy dependence for taxation on the club industry and the proliferation of gambling in hotels this is an increasingly serious problem. Whilst I support this bill, I caution that great care and attention be given so that it does not adversely affect and impact upon families struggling as a result of the gambling habits of one spouse.

Mr RUDDOCK (Berowra—Attorney-General) (7.04 pm)—I thank those members who have spoken in this debate: the member for Gellibrand, the member for Moncrieff, the member for Rankin and, latterly, the member for Reid. For the record, may I say that the substan-
tial issue raised by the member for Gellibrand was the progress of the Bankruptcy Legislation Amendment (Anti-avoidance) Bill 2005. In the 2½ years that I have been Attorney-General, I have always been anxious to see these issues progressed as expeditiously as possible. I have no wish to see people being able to engineer their affairs in a way which enables them to avoid proper obligations and still to benefit from their assets by using insolvency. To the extent that some members of the legal profession, who ought to set a higher standard, were known to be doing that, I have always been anxious to see those issues addressed. I find it extraordinary that such activity can go on among people who are officers of the court and who have a particular obligation to uphold the rule of law and that they would manipulate these issues in the way in which they did.

So I have been anxious to have these issues dealt with as expeditiously as possible, as has the government. However, we have also wanted to ensure that there are not unintended consequences. I would have thought the member for Gellibrand would have thanked me for ensuring that the House of Representatives Standing Committee on Legal and Constitutional Affairs had an opportunity to contribute to that discussion. It was as a result of committee deliberations that the bill was amended further and a high level of consultation has taken place in relation to that process.

It is in that context that, in closing this debate, I emphasise that this bill is about strengthening the existing anti-avoidance provisions in the Bankruptcy Act 1966. By increasing the time limits for the clawback provisions where the transfer was to, or the property was held in the name of, a related entity, these changes will make it harder for bankrupts to deliberately avoid these provisions in the lead-up to bankruptcy by off-loading assets to family members. It is in this context again that I note that further changes will mean that bankrupts who fail to keep proper books, accounts and records will be presumed to be insolvent for the purposes of the clawback provisions. That change acknowledges that, if a bankrupt is unable to produce books and records explaining their financial position at a particular time, it would be reasonable to allow the trustee to presume they were insolvent at that time.

Similarly, the application of division 4A of part VI of the act to natural persons will further protect the bankruptcy system from abuse by allowing creditors to access the bankrupt’s wealth that has been deliberately diverted in the lead-up to bankruptcy. Pursuant to these changes, the court may make orders in relation to the property or money of a natural person where, during the period of up to five years prior to the bankruptcy: the person acquired an estate in property as a direct or indirect result of financial contributions made by the bankrupt during that period, or the value of the person’s interest in particular property increased as a direct or indirect result of financial contributions made by the bankrupt during the period; and the bankrupt used or derived, whether directly or indirectly, a benefit from the property during the relevant period.

The amendments relating to transcripts and notes from examinations under sections 77C and 81 will mean that these will be able to be used in proceedings under the act, regardless of whether the person examined is a party to the proceedings. The amendment will assist trustees, particularly in relation to proceedings to recover property for the benefit of creditors.

As I indicated earlier, the amendments to be made by this bill were the subject of very extensive public consultation. The package of reforms is based upon suggestions from stakeholders. The changes strike the right balance between the rights of individuals to organise
their affairs as they see fit and the rights of creditors to be paid. More importantly, the
amendments contained in this bill will ensure that our bankruptcy system is safeguarded from
deliberate abuse by bankrupts. I do not apologise for the efforts to get it right and I am grate-
ful that this chamber is now going to give it expeditious consideration and that the opposition
has indicated its support for the measure. I commend the bill to the chamber.

Question agreed to.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr RUDDOCK (Berowra—Attorney-General) (7.10 pm)—by leave—I move:

(1) Schedule 1, item 6, page 3 (line 31) to page 4 (line 5), omit the item, substitute:

6 At the end of subsection 120(1)
Add:

Note: For the application of this section where consideration is given to a third party rather
than the transferor, see section 121A.

(2) Schedule 1, item 9, page 4 (lines 31 and 32), omit the item.

(3) Schedule 1, item 11, page 5 (lines 6 and 7), omit the item, substitute:

11 At the end of subsection 121(1)
Add:

Note: For the application of this section where consideration is given to a third party rather
than the transferor, see section 121A.

(4) Schedule 1, item 14, page 5 (lines 22 and 23), omit the item.

(5) Schedule 1, page 5 (after line 29), after item 15, insert:

15A After section 121
Insert:

121A Transactions where consideration given to a third party

(1) This section applies if:
(a) a person who later becomes a bankrupt (the transferor) transfers property to another per-
son (the transferee); and
(b) the transferee gives some or all of the consideration for the transfer to a person (a third
party) other than the transferor.

(2) Sections 120 and 121 apply as if the giving of the consideration to the third party were a
transfer by the transferor of the property constituting the consideration.

(3) If the giving of the consideration to the third party is void against the trustee in the trans-
feror’s bankruptcy under section 120 or 121, the trustee has the same rights to recover the
property constituting the consideration as the trustee would have if the giving of the consider-
ation had actually been a transfer by the transferor of the property constituting the consider-
ation.

These government amendments remove items 6, 9, 11 and 14 from the Bankruptcy Legislation
Amendment (Anti-avoidance) Bill 2005. The items sought to clarify the meaning of ‘con-
sideration’ in sections 120 and 121 of the Bankruptcy Act to ensure that the trustee could re-
cover loss to the bankrupt estate resulting from consideration being diverted away from the
estate in the period leading up to the bankruptcy. The government proposes to remove these items because their effect would be that the trustee may be able to recover property from an arms-length transferee who has paid full market value consideration to a third party for the transfer.

These amendments also replace items 6, 9, 11 and 14 with amendments that would allow for the application of the provisions in sections 120 and 121 of the movement of consideration from a transferee to a third party. These new amendments would deem that movement of consideration to be a ‘transfer’ for the purposes of sections 120 and 121. This would mean that, in a situation where a transferee passes on market value consideration to a third party, and the third party fails to provide market value consideration to the bankrupt, the trustee would be able to recover for the bankrupt estate the consideration held by the third party. As is currently the case in relation to sections 120 and 121, the trustee would be obliged to refund to the third party—that is, the transferee for these purposes—any consideration given for a transfer that is void against the trustee.

I note that the honourable member for Gellibrand was aware of those amendments, referred to them in her speech in the second reading debate and indicated her support for them. I table an explanatory memorandum.

Question agreed to.

Bill, as amended, agreed to.

Ordered that this bill be reported to the House with an amendment.

FAMILY LAW AMENDMENT (SHARED PARENTAL RESPONSIBILITY) BILL 2005

Second Reading

Debate resumed.

The DEPUTY SPEAKER (Mr Quick)—The original question was that this bill be now read a second time. To this the honourable member for Gellibrand has moved 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.

Mrs IRWIN (Fowler) (7.12 pm)—The Family Law Amendment (Shared Parental Responsibility) Bill 2005 comes to this House as another attempt by government to try to get right the difficult issue of Australia’s family law system. As a member and the deputy chair—and you, Mr Deputy Speaker Quick, are a member of the committee—of the Standing Committee on Family and Community Affairs, as it was known in the last parliament, I can say that this issue is one that has demanded a great deal of thought and concern. In the foreword to the committee’s report, the committee chair, the member for Riverina, spoke of the impact on her of the 14 young people who gave evidence to the committee. She singled out one young person, Jack, who gave the committee his story by way of four drawings which showed in a very direct way the impact of family separation on children. Jack’s drawings gave the report its title, *Every picture tells a story*. But to put that into perspective we must realise that Jack’s story of family separation is in some way repeated in the lives of more than one million Australian children who today are affected by family separation.

This is a major issue, Mr Deputy Speaker, as you do know, affecting a very large part of our young population. We should not forget the parents, grandparents and others affected by
family separation. Family breakdown in Australia is estimated to cost between $3 billion and $6 billion a year, but the cost in human terms—in the terms shown so graphically in Jack’s drawings—represent a cost that no Australian child should be asked to bear.

For the sake of those one million Australian children alone, this parliament must set itself the task of drafting a family law system that brings fairness and transparency to all involved. We must examine with a fine toothcomb the proposals put forward by the government in this bill. We have to draw on all of our experience and the advice of experts to make sure that what we are putting in place not only will work in the best interests of the children affected but also will provide a measure of certainty and justice to the hundreds of thousands of parents caught up in our family law system.

We must also consider the effect of these changes in the light of other changes now working their way through our social and economic systems. We must consider the impact of the government’s so-called Welfare to Work changes. We must consider the implication of changes to our industrial relations system and we must also look at the impact on the balance between work and family issues of things such as the cost and availability of child care. But in all of this we must not lose sight of the impact on the children involved and, as far as possible, act in their best interest and allow them, when appropriate, a say in the outcome.

In looking at the specific measures contained in this bill, I will begin with the introduction of a rebuttable resumption of shared parental responsibility. This measure was one of the recommendations from the House of Representatives Standing Committee on Family and Community Affairs report Every picture tells a story. In its conclusion, the committee gave its definition of shared parental responsibility as:

… involving a requirement that parents consult with one another before making decisions about major issues relevant to the care, welfare and development of children, including but not confined to decisions about education, religious and cultural upbringing, health, change of surname and usual place of residence.

The committee added that this should be outlined in a formal parenting plan.

It should be noted that the Family Law Reform Act 1995 was said to have intended to create a rebuttable presumption of shared parenting, but the evidence given to the committee’s inquiry clearly indicated that what had happened in the courts and in the community after those changes did not reflect the intentions of the parliament when those reforms were enacted. That is worth noting when we look at the possible outcomes from these changes. The 1995 reforms may have changed the terms ‘custody’ and ‘access’, but their replacements, ‘resident’ and ‘contact’, have effectively taken on the same meanings. It is significant that, in many individual submissions to the committee, separating parents said that they acted on legal or other advice that maintained a winner or loser situation. As a result, the committee recommended that the terms ‘resident’ and ‘contact’ be dropped, to be replaced by family-friendly terms such as ‘parenting time’.

I have no difficulty with the concept of shared parental responsibility, but I do think that the House should be aware that it is not a concept that will be easily understood in the community. Unless it is very well explained in each case, we will find ourselves left in the same position that we have been in since the 1995 reforms. I should add that I do not see the basic three hours of free mediation provided by the proposed family relationship centres as being
able to ensure that all parties fully understand the concept of shared parenting, but I will return to that later.

I want to move on to the proposal to require the court to consider equal, significant and substantial shared time with both parents. The committee expressed its view that shared residence arrangements should become the norm wherever practical, rather than the current emphasis on sole residence. The committee noted the 1997 ABS figures that showed that only 2.6 per cent of children in separated families were in a situation that could be described as shared care. By contrast, 74 per cent of children had contact with the non-resident parent less than once a week. In a 2000-01 survey undertaken by the Family Court of Australia, residence was awarded to the mothers in 78.4 per cent of cases where there was a consent application, in 75.7 per cent of cases that were settled after the commencement of litigation and in 69.2 per cent of cases that were tried. In the overwhelming number of cases, the mother was awarded residence.

When it comes to contact agreed to be granted to a non-resident parent, Family Law Court figures show that only 12.5 per cent of fathers were granted contact for more than 108 days a year. This figure rises to 18.2 per cent in settled applications and 29.5 per cent in judicially determined matters. I should add that the magic figure of 109 nights is a cut-off for the Centrelink parenting support payment, which has consequences for the income of residential parent.

It was clear that community expectations, and to some extent court decisions, place residence in the hands of mothers. The committee concluded:

... the current experience with sole residence orders results from the distinctions between residence and contact both in the legislation and in community perception.

The committee suggested that, to overcome the 80-20 outcome, language around shared post-separation parenting needs to be devised which is neutral and reflects assumptions that children will be given the maximum opportunity of spending significant amounts of time with each parent. I would have to add that I think it would take more than a change of language. In fact, it would require a major shift in community attitudes for shared parenting to become the rule rather than the exception.

With regard to the changes which will require courts to consider equal, significant and substantial shared time with both parents, changes to the law alone will not bring this about. A major shift in community attitudes would be necessary before equal shared parenting becomes more common. So I have to ask whether the government is not putting the cart before the horse when it comes to these changes. By requiring the court to consider equal shared time, the complex proceedings of the family law system can only be further complicated. The committee noted that only one jurisdiction in the English-speaking world has a rebuttable presumption of equal time.

I should also add from the committee’s report some concerns regarding the idea of a rebuttable presumption. In its submission, the Attorney-General’s Department stated:

... should an equal time presumption be introduced into the Family Law Act, one possible outcome of its operation could be that it would effectively replace the principle that the best interests of the child are the paramount consideration…

The Attorney-General’s Department went on to add:
Presumptions in legislation work best where they represent the norm or usual situation. …

As I have already pointed out, shared parenting is far from being the norm in Australia. Other problems identified by the committee in relation to shared-time parenting were that there are dangers in a one-size-fits-all approach, and in cases where there is ongoing conflict children may be at risk of exposure to such conflict. The committee also found that family-friendly workplaces are rare, as are the financial resources necessary to support two comparable households. Other factors include the lack of child-caring capabilities in some cases. There is also the matter of distance between households, which may create problems for transport and schooling, and there is the not uncommon further complication of combined families. The committee was left with the conclusion:

In the end, how much time a child should spend with each parent after separation, should be a decision made, either by parents or by others on their behalf, in the best interests of the child concerned and on the basis of what arrangement works for that family.

That is a difficult task and one which I am not yet convinced the measures in this bill will fully address.

The bill also seeks to introduce compulsory mediation before litigation in family law matters. I should point out that a form of compulsory mediation is already a part of the family law system. According to the family law court of Australia, for every 100 applications initiated, 58 involve a mediation or conciliation event. Of those 100 applications, only 13 proceed to a trial hearing and only six will be heard to judgment. It is fair to say that mediation and conciliation are already part of the family law system.

As far as mediation and the other changes in this bill are concerned, there is the introduction of less adversarial court processes for cases involving children, the promotion of parenting plans as agreed between parents without lawyers and an increase in family relationship services. There is an underlying assumption in this bill that, when it is introduced, all will be well—that the complexity of the family law system will be swept away and everyone will be happy. But, as I am sure the other members of the family and community affairs committee would agree—and this was a bipartisan report—this is a most difficult issue and there are no easy solutions. As the committee concluded:

Despite the intention of the Family Law Reform Act of 1995, shared parenting and shared physical care have not become a reality for the vast majority of separated families. There are still winners and losers and children are still treated as the spoils of divorce and separation. Whilst legislation cannot make people behave reasonably or be good parents, it can provide them with a template within which to develop their own parenting responsibilities … The committee believes that shared parental responsibility needs to become the standard. It believes that this can be achieved in part by making specific adjustments to the legislation.

Having looked closely at possible changes to legislation, the committee concluded:

In the light of all the evidence the committee believes that all disputes about post separation responsibilities not involving entrenched conflict, family violence, substance abuse and child abuse, including sexual abuse, must be removed from adversarial court processes.

That conclusion led the committee to look to redesigning the legal system for family friendly outcomes. The committee took its lead from Professor Parkinson, who urged:
So I think we have some fundamental rethinking to do, not only about the law—maybe that is the easiest part—but also about the systems by which we adjudicate and resolve ongoing conflict between parents and children...

This view was supported by Professor Moloney of the Department of Counselling and Psychological Health at La Trobe University. He called for:

...a less formal tribunal system that would be chaired by one or more individuals who have an in-depth understanding of child development and family dynamics and who, whilst retaining their authority, can engage directly and respectfully with family members.

Professor Moloney went on to describe a second benefit of a tribunal related to the involvement of lawyers. He said:

I think family members need to feel that they have been heard and that they can say what they need to say, not in a manner filtered by a barrister through legally modified language but directly and in their own language, to a decision maker who has the skills to check that he or she has indeed heard accurately.

While the suggested tribunal approach may be restricted to contact disputes initially, it is in this regard a model similar to that proposed by the Attorney-General’s Department and the Family Law Council. This legislation effectively puts such a tribunal in cold storage—which I am very disappointed about—to be thawed out only in the very likely event that the proposed system of mediation through family relationship centres is not successful.

By then, another committee will have revisited this issue and no doubt recommended the same seven-step approach recommended in *Every picture tells a story*. But, in the meantime, hundreds of thousands more families will face the unworkable family law system. I would definitely like to be proved wrong, but I greatly fear that the proposed family relationship centres will be a poor substitute for a tribunal. Rather than a first-stop shop for separating couples, the mediation will be little more than another hurdle to be crossed. With the exclusion of lawyers, the mediation process becomes a stand-off rather than a meaningful attempt at resolution.

Under the proposed tribunal, lawyers could be admitted or excluded at the discretion of the tribunal, allowing any legal points to be dealt with openly. I can imagine a typical mediation before the family relationship centre where both parents turn up with a list of demands drawn up by their solicitors. Do not think that will not happen. While we might like to think of family relationship centres as the first stop for separating couples, I think it is a safe bet to assume that their solicitor’s office will be the first point of contact no matter what system we have.

Given the consequences for all parties of any outcome, one would be a fool not to speak to a solicitor. I know I would speak to a solicitor before any mediation. That is definitely not going to change under these reforms. I hope that these reforms will make a difference to this very difficult area of law, but I have to admit that I am very pessimistic. I hope that I will be proved wrong, but I do not think I will be.

**Mr JOHNSON** (Ryan) (7.32 pm)—As the federal member for Ryan, it is a great pleasure to speak in the parliament on an important bill that the Howard government is putting forward for the parliament to endorse—the Family Law Amendment (Shared Parental Responsibility) Bill 2005. I would like to suggest to the parliament that marriage and family are the building blocks of our society. Marriage is a fundamental institution in our community. I think most Australians would share this view. That is certainly very much the case in my electorate.
Families are built around marriage. As the member for Ryan, which I have the great honour of representing in this parliament, I say very strongly that families are my priority.

Of course, we all know that, unfortunately and with great sadness, many marriages do end in divorce in this day and age. We know that there is great sadness and tragedy within families when marriages end and families come apart. There are some 55,000 divorces in this country, all of which are deeply regrettable. It is our job as members of parliament and community leaders to try to minimise the number of these. Unfortunately, most of these divorces involve couples with children. As more and more Australians are getting divorced and separating, we are seeing in our electorate offices the increase in numbers of child custody battles and issues concerning child support. Since I was elected in 2001 I have had the opportunity to hear and see too many parents come to my office to talk about this terribly sad topic. Separating parents coming to talk about relevant issues of access, child support and custody is one of the most heartbreaking areas that I think a federal member has to deal with.

In my electorate of Ryan, the majority of mums and dads who have gone through the process of separation and dealing with custody have not contacted me. At the same time, for the hundreds who have I feel a great deal of sympathy and sadness when they come to my office to pour out their emotions and their problems. As I said, the great majority work through the system. They somehow are able to work with each other, to discuss these issues and work through the problems to achieve some sort of compromise, to minimise the conflict, the hostility and, no doubt, the deep disappointment that follows a breakup.

Both men and women come to me with these concerns. They come to me to discuss the smorgasbord of issues that follows the terrible experience of separation and divorce. The complaints are very much about the system, the framework and how the government is dealing with it. It goes without saying that there is also great anger and frustration at the ex-partner. I know that there are mothers and fathers in the community who are striving very hard to do the right thing by their kids in difficult circumstances, and I want to pay tribute to them. They take their responsibilities as parents very seriously and they do want to do the very best for their children. After all, their children are the product of both of them.

From the experience that I have had in my five years as the federal member for Ryan I would say that there certainly seems to be a bias or a trend against men in child custody cases. I think that betrays prevailing notions of gender roles within the family. Unfortunately, over a
third of children rarely see their fathers, if at all. This has also meant that men who want to shirk their responsibilities towards their families have been able to get away with it. This is reprehensible. There are also mothers who are using every bit of leverage they can to add to the angst and hostility that is already inherent in the separation or divorce. As I am sure all of us would know, there are many claims of child abuse, of changing child support estimates, of chopping and changing addresses and even of denying visitation times and contact hours to suit their own needs and to spite the other parent.

No-fault divorce was established in 1975 by the Family Law Act. We know that no-fault divorce was introduced to allow partners to release themselves from unhappy marital relationships. Unfortunately, where children are involved, unhappy marital relationships are sometimes replaced by a lingering element of conflict that spills over to not only the ex-partner but the children. I think that the adversarial system that I have touched on does have much to answer for. It is imperative that as a government we try to address this and we try to make the system as good as we can. That is what this important bill before us today does.

The legislation before us is one component of an overhaul of family law in this country which tackles the problem on three fronts: introduction of a new community services program to help resolve and reduce family conflict; reform of the child support system; and changes to the Family Law Act. The aim of these reforms is to overhaul the attitudes of Australians involved in family separation from one of conflict and an adversarial mind-set to one of cooperation and shared responsibility. The major flaw in the current system is that parents are trying to get away with as much as they can. The worst outcome is, of course, to see the custody of their children as some kind of prize or trophy that they are able to win at the expense of their former partner.

The interests of the child remain absolutely fundamental in all these reforms. They will continue to be the overriding priority of this legislation and its outcomes. Children have a right to physical and emotional health and safety and the right to know both of their parents. The rights of children to know both their parents and be protected from harm are the primary factors when judging these issues.

The major reform of this legislation is enshrining a presumption of equal shared parental responsibility. I want to stress in the House today that key word: presumption. The courts will be required to consider whether equal time with both parents is reasonably practicable and in the bests interests of the child. Again, we come to the defining criteria—that is, that it is reasonably practicable and that it remains in the best interests of the child. If it is not practicable, then substantial and significant time must be considered as an alternative, not the presumption of equal shared parental responsibility.

The definition of ‘family violence’ will be amended to make it clear that fear or apprehension of violence must be reasonable. Domestic violence and child abuse are issues that must be taken very seriously. As someone who has come to this parliament as a qualified barrister and having practised for a short time, and having had clients who were involved in domestic violence issues, I know how that operates in my state of Queensland and how that very important aspect of the law can be misused and abused by a certain partner.

When warring parents throw accusations at each other trying to exact vengeance or gain some sort of sympathy, it diminishes those who actually suffer violence and intimidation in their homes. We all know that every false accusation means that the real victims of domestic
violence will find it harder to be trusted and to have it believed that they are authentic and genuine victims of violence. It is the story of crying wolf. The more times you cry wolf, the less you are going to be believed that there is a wolf there. I want to encourage those in this situation to resist as much as possible the very strong temptation of engaging in false accusations against someone whom they have previously had much affection for but in the break-up might wish ill will upon.

The enforcement of parenting orders will be strengthened. These are serious court orders. They are part of our law, and parents who thwart them or defy our courts should not be let off lightly. We would not let anyone else get away with it, and it is a very serious matter for the welfare of the children involved. We have to make sure that these orders are enforced.

Previous speakers have commented on dispute resolution. I again want to talk about the importance of trying to get away from the system of conflict, the adversarial system, that we have and to encourage those going through this process to, as much as possible, try very hard to be generous of spirit in dealing with this terribly difficult issue, because where there are children surely their children, above all else, must come first.

When I sit down with a constituent of Ryan who comes to see me or when I receive a letter or an email detailing some of the terrible difficulties that constituents are experiencing with child custody or child support, I must acknowledge that it is a very trying time. It is not something that I really look forward to in terms of the vast array of matters that come across my desk, but it nevertheless is very important to be available for those who come to see you, to seek your counsel and to seek your genuine and practical help. I do find on some occasions some of the stories that are related to me to be just absolutely unbelievable, to be incomprehensible, to be terribly sad, and of course, on some occasions, the conduct of some parents I find to be reprehensible.

I want to briefly recount one case in the parliament today that demonstrates the sheer callousness of the conduct of some parents—and of course, given privacy matters, I am not going to reveal the names of those involved. In this particular case, where a Ryan constituent came to see me, the victims were a father and his two children, but of course in the example the gender could easily be reversed. In this case the gentleman from my Ryan electorate came to see me after his ex-partner had abandoned their two children, 11-year-old twins, in the car park at a local shopping centre. She had a row with the children and just left them in the car park with no way to get home. These were two 11-year-old kids who were left to fend for themselves.

It was dark, the shops were shutting and fortunately these young children had the resourcefulness to borrow a mobile phone from someone at the shopping centre. They called their father for help. He came to their rescue, picked them up and took them home. But 1½ hours after abandoning these children the mother phoned the father, no doubt thinking that the children might be with him. They were of course, and she demanded that they be returned to her immediately, otherwise there would be great consequences. The poor children were very frightened and very upset by this ordeal. They were terrified of going back to their mother, but this gentleman had no choice but to return them to her.

He was, naturally, very concerned about what had happened. He took it upon himself to call the Queensland government Department of Child Safety, and I wish that what I could say about their response was not what I am about to say. He encouraged the department to log this
incident so that it could be on the record. Unfortunately the absurdity of it all is that, after
coming to the rescue of his two young children, he was told by the Department of Child
Safety that he had in fact violated his court order by contacting his children in the first place.
This was a non-contact day and by going to that car park and picking up his children in these
circumstances he was condemned for violating the orders of a court—a very troubling set of
circumstances. I am not sure what the Department of Child Safety expected that parent to do
in those circumstances—just to hang up on his children is a conclusion that might be reached,
but that sort of response is reprehensible and ought to be condemned. I hope very much that
that individual, that bureaucrat, who it no doubt was, will hang his head in absolute shame.

The work of the child safety department is important and they ought to be more compas-
sionate and more understanding. But this is just one example, very regrettably, of what is hap-
pening in the real world—not in some office building, not in this place, but actually in the real
community, out in the suburbs, out in the towns across this country and we have to deal with
it. You would think that people who have children would put them right at the top of their
concerns and their priorities. With human nature being what it is, that would be the conclusion
one could come to, but maybe that is not the case—obviously that is not the case in so much
of what we know from experience.

I want to end my remarks here by commending this bill to the House. I think it is an impor-
tant bill. I commend all those who were on the relevant committee that explored this difficult
issue. We do not have the wisdom of Solomon in the parliament here, but we certainly try to
come to the best results and outcomes and to deliver the best circumstances for the people of
Australia in what is a very difficult case. I absolutely implore all Australians and certainly all
the constituents that I have the great honour of representing—particularly those constituents
who are going through this, no doubt, very sad and difficult situation of ending a marriage and
a life together—to try to come to some kind of resolution, to put aside the past and to go for-
ward.

My wife and I have friends who are going through this very difficult situation. Regrettably,
there is animosity and hostility. Our friends who are in this situation have three children. We
have had the pleasure of their company over the years in their home, and we now see them
fighting each other and fighting over their children. It is almost like the spoils of war, from
what we see as friends on the outside. It is terribly sad. I encourage those friends of mine to
come together in the best interests of their three beautiful children because, at the end of the
day, their children should be their most important concern.

I am about to be a father in several months time. I am going into the fatherhood club. I
think I should deserve a medal, from what I have been told lies ahead of me with my wife,
who is sitting here today. I look forward very much to that great privilege. I have said on
many occasions in this parliament that it is a privilege being a member of the parliament, but I
can think of no greater privilege and no greater honour than being a father. I know that my
friend and colleague here, the member for Blair, and my new colleague in the parliament, the
member for Kingston, have children—and I will be joining their club. (Time expired)

Ms GEORGE (Throsby) (7.52 pm)—I want to begin my contribution on the Family Law
Amendment (Shared Parental Responsibility) Bill 2005 by saying that one of the highlights of
my career as a parliamentarian was the opportunity I had to be involved in the major reas-
sessment of the operations of the Family Law Act and the child support system. I say that be-
cause, like most members of parliament, I know how important these issues are to the lives of many of our constituents and how much of our personal time is involved in trying to help resolve very complex and at times tragic circumstances.

For an intensive period of around six months in 2003 the House of Representatives Standing Committee on Family and Community Services participated in an exhaustive inquiry which led to what I believe is a very important and groundbreaking report—*Every picture tells a story*. Over 2,000 people contributed to the inquiry by making submissions, by appearing at our hearings, through the facilitation of our visits to courts and mediation centres and through the range of exhibits that we were asked to consider. I think it is important to note that all states and territories were visited as part of our wide-ranging public hearing program.

The final recommendations of the report were adopted unanimously and made in the spirit of genuine bipartisanship on issues that, in my view, really do transcend party politics. I want to take the opportunity to commend especially the commitment and the effort of the chair of the committee, the member for Riverina, Kay Hull. She worked very hard, trying to balance the competing views and different priorities and interests of a diverse range of members on that committee. I think it was largely due to Kay’s efforts that we were able to come to a unanimous agreement on all the recommendations. Kay ended her foreword to the report by stating:

We have worked together and completed the first step—the report. We must now continue to work together to ensure it is implemented.

I agree. Finally, after quite a lengthy gestation period, we have come to the implementation phase.

There is no doubt in my mind that, as a result of the debate we are having on this bill and the amendments that will be considered, the final outcome will lead to a major overhaul of the family law system and address the issues of major concern that came before us during the course of the inquiry—and, I might say, not before time. The amendments moved by the Labor Party have been addressed comprehensively by the shadow Attorney-General, so I do not propose to add significantly to that contribution, because I want to make my remarks as a layperson, not as a lawyer. It is as a layperson that I am trying to balance the concerns that come before me, and I want to feel comfortable that the legislation that finally results from our deliberations will make it easier for the layperson and the people involved in the system to seek a better outcome than has been the case until now.

During the course of the hearing, I was very privileged to hear at first hand some of the very personal cases and concerns that were brought to the committee. As others have noted, there were times of really quite high emotion. But I think that all who came before us were genuine in their desires to see improvements to the system. As a child of divorced parents, the one thing that struck me was that in Australia today almost one million children are growing up with one of their natural parents living elsewhere, and in 88 per cent of the cases the absent parent is the father. It is quite alarming that 35 per cent of the children in Australia who are now in sole care visited their other natural parent either rarely—that is, once a year or less—or never at all. That is about 350,000 children in that situation, the social consequences of which should be a matter of major concern to us all. With such a damning statistic it is no wonder that many separated parents, predominantly fathers, feel excluded from their children’s lives following separation. Less than three per cent of children—some 25,500—were in
what we call shared care arrangements, which are defined as each natural parent looking after the child for at least 30 per cent of the time. Even in the shared arrangements a very small proportion of children were being looked after by either parent for at least 30 per cent of the time. So it struck me that something was seriously amiss. The Family Reform Act 1995 was meant to have created a rebuttable presumption of shared parenting, but all the evidence showed that this was not the outcome either through the procedures of the court or in the non-court negotiated outcomes.

Another major issue of concern was the strongly held views of the people who appeared before us that the system operated in a manner that led to an 80-20 outcome in parenting arrangements. We heard repeated references from our witnesses to a ‘cookie cutter outcome’ which had become the norm, a norm which led to the mother usually being in the position of the sole resident parent and the father’s contact being restricted to alternate weekends and half the school holidays. The common 80-20 outcome seems to have been perpetuated both in court decisions and in the legal advice being given to parents in out-of-court settlements. So this perception was widely held, and I have to say that the data we read from the Family Court confirmed this perception. In just over 40 per cent of consent applications, contact was being awarded to the non-resident parent at the level of 51 to 108 days, and in over 70 per cent of cases when determined by a judge. So you had to come to the conclusion that the perception out there of the cookie cutter outcome was indeed the reality in many situations.

Section 60B of the existing Family Law Act sets out the importance of a child’s right to continue to know and be cared for by both parents, but the outcomes in practice did not support this important principle. So, from my point of view, there had to be a better way of ensuring that the law operated in a way that maximised the amount of time children spent with each parent after separation. Of course, it is important to reassert the exemptions we made to the notion of the presumption of equal shared parental responsibility—that is, in cases of entrenched conflict, in cases of family abuse or sexual violence, that presumption would not apply. I do not want to suggest that all parents are wonderful people. Sometimes it is in the best interests of the child to cease contact with one or the other parent on those serious grounds. But, in general, I certainly believe that the law had to be changed to reflect changes in society and the changes that were occurring in our desire to ensure that men accepted a greater role in parenting responsibilities.

The committee was asked to consider whether there should be a presumption that children will spend equal time with each parent. I am sure that the advocates of this proposition were partly inspired by what they saw was occurring in practice—a practice that they thought left far too many fathers in particular missing out on the important phases of their child’s growth and development. For sensible reasons the committee unanimously rejected this approach in favour of a clear presumption of equal shared parental responsibility. By that we meant that both parents should be consulted and consult with one another before major decisions are made in relation to the care, welfare and development of children, including but not confined to education, religious and cultural upbringing, health, and usual place of residence. We hoped that, in the majority of cases, these shared parental responsibilities could be expressed in the form of a parenting plan.

In terms of acting in the best interests of children, I again state that there should always be a clear presumption against shared parental responsibility in cases where there is entrenched
conflict, family violence, substance abuse or established child abuse, including sexual abuse. I have some regrets that the bill before us does not pick up all the grounds for the presumption not being given effect. It does narrow it down somewhat from all the cases that we believed ought to act against a presumption of shared parental responsibility.

The committee rejected a mandated equal time template. There are dangers in a one size fits all approach to the diversity of family situations and the changing needs of children. We all know from our own experiences that there are many practical hurdles to overcome in moving to a greater emphasis on shared residency arrangements. For example, workplaces need to be a lot more family friendly than they are. We know that in reality we do not want to create situations where we believe we are acting in the best interests of children but where distances between households of separated parents can create insurmountable transport and schooling problems.

We also need to acknowledge that there is a weight of professional opinion that stability in a primary home and routine is a good option for young children in particular. I want to quote from the Australian Institute of Family Studies on this point. They make this point quite validly, saying: ‘Each child and each family circumstance is unique, so you need to take each case on its merits.’ Decision-making rules should encourage ‘different and more creative ways that parents can arrange care, so that if parents separate they can look at different ways of doing things.’ But there are important lines to be drawn, as one professional, Dr McIntosh, concluded in his submission to the inquiry. He said—and this is very important:

The findings … are unequivocal, and unapologetic regarding parental conflict and impacts on child development. Yes, children are strong; yes, development is robust; no, divorce does not have to be damaging; yes, parents basically want the very best for their children; and, yes, enduring parental conflict places the odds against all children, in all families.

In the end, how much time a child should spend with either parent after separation should ideally be a decision made by both parents, whenever possible. Decisions are made in the best interests of the child concerned and on the basis of what arrangements work practically for that particular family. A recent editorial in the Sydney Morning Herald commented on the proposed changes in the following terms:

No-fault divorce is a decades-old concept, but the issue of fault enters divorce proceedings when assets are divided and a dispute over child custody arises. The court’s bias in favour of custody for mothers reflects the historical reality that mothers spend more time than fathers raising children. In an era of presumed sexual equality there can no longer be a presumption that the father does not have a vital role to play in the upbringing of a child. Each case will be determined by examining the family history and the unique circumstances of each divorce. Under this legislation, if a father has a record of diligence as a parent, this should be recognised by the court. It also follows that a diligent mother should not have to carry an excessive burden of care.

I was quite intrigued by the argument advanced in this editorial because, being a feminist, I think it is important that the institutions in our society are just and reflect the changing realities of family formation and family life, and women’s roles in both the home and the public spheres. Referring back to those statistics that I talked about in terms of the 80-20 outcomes, it seems to me that those outcomes determined by courts and in the shadow of legal proceedings reflected a bygone era—an era where dads in particular probably did not have the same enthusiasm to take on board parental responsibilities and be more involved in the upbringing of their children. Well, that is changing for the better.
The other thing that struck me wherever I travelled and listened to witnesses was the widespread dissatisfaction with the current family law processes. No doubt lawyer colleagues may not like to hear what I am about to say, but it is based on evidence presented to the committee and it is important for the legal fraternity to give due consideration to these concerns. The witnesses said time and time again that the system for resolving family disputes and care of children post separation was a very legalistic one. It was seen as adversarial—a system that produced winners and losers. They also pointed to the high costs of pursuing legal redress, which means that justice, in my view, is being denied today to too many people, and to too many people in electorates like mine where money is often a prohibitive factor in trying to pursue justice.

The huge expense of pursuing the enforcement of court orders once made makes a mockery of a system that should be ensuring just outcomes for all. If you do not get justice because you cannot afford it then justice is being denied, and that is not a situation that I can live with; it is an untenable position. In the words of Professor Parkinson, who made a significant contribution to the deliberations:

… the court system has not changed. The court system is fundamentally predicated on the idea that there is one major issue to resolve sometime after separation: where the children will live. It is an inflexible system. It is an adversarial system.

…

The system is not well attuned to the fact that families are dynamic.

The committee was strongly of the view that radical changes were needed to make the family law system less dependent on lawyers, less dependent on courts and less dependent on costs—and those costs, as I said earlier, were prohibitive for many who presented their testimony to us. That is why the committee went down the route of recommending compulsory mediation and a non-adversarial tribunal—which regrettably the government did not pick up—together with a more restricted role for the Family Court, with processes that were less formal and less legalistic. The family relationship centres, the proposed compulsory mediation processes and parenting plans are some of the outcomes of our findings reflected in the legislation before us, which I certainly welcome.

The new family relationship centres are consistent with one of the important recommendations we made. We hope that through these centres the processes will be easier for mums and dads to make decisions jointly, to reach agreement at a much earlier stage in the separation process, thus avoiding, wherever possible, conflict between parents becoming entrenched. We hope it will resolve the child custody disputes without having to go to court. We see this process as keeping lawyers out of the early stages of negotiation and placing a greater reliance on dispute resolution and mediation. We hope it will lead to agreements on parenting plans that will have legal effect, and we hope that it will help to resolve disputes outside the courts.

A major cause of conflict between separating parents has been the breach of parenting agreements, and court orders in particular. I referred to this aspect earlier as one of the major failings of our current system. I am certainly hoping that the processes of the family relationship centres will address that very important issue. One of the initial centres will be based in Wollongong, and I welcome that development. It will be a great service to many of my constituents, and I will watch its operations with keen interest. I think we need to ensure that the tender process is open, transparent and accountable; that the services will be high quality,
properly supported, correctly placed and regulated; and that we do, by law, guarantee access to at least three hours of free mediation.

The other vexed issue that we had to deal with was the issue of allegations made about violence and abuse. It is not an easy issue to resolve, but I do welcome the government’s announcement of a more thorough look at this critical issue, which was constantly raised during our inquiry. The issue concerns how we deal with accusations of violence and abuse and how those accusations are handled between jurisdictions and by the courts. We heard repeated evidence about claims of false allegations and false denials about violence and abuse, and that those false allegations and denials were, in the words of witnesses, often being used to either stall legal proceedings or strengthen custody outcomes in favour of one or other of the parents.

As law makers, we have an obligation to take any allegation of family violence seriously and ensure that these allegations are dealt with fairly, effectively and expeditiously. Unfortunately, this is not the case at present. Allegations as serious as these should not be allowed to hang around indefinitely. A more effective process is needed so that the facts can be established speedily, otherwise family members can be left exposed to the risk of violence or, alternatively, the reputations of decent people can be seriously sullied.

Coordinating the approach to cases of violence between Commonwealth, state and child protection agencies is, in my view, critical to the overhaul of the family law system contemplated in this bill. I am pleased to see that the Family Law Council will give this matter further serious attention and that the Australian Institute of Family Studies will do research into this important area. I trust that the overhaul of the family law system as proposed in the bill and the amendments which will be debated will lead to better outcomes for children, their parents and their grandparents. We cannot legislate for decent human behaviour, but we can legislate for a better system that is fairer, more responsive, more affordable, more accessible and less adversarial. If that is what we achieve, then we have served our community well.

(Time expired)

Mr RICHARDSON (Kingston) (8.12 pm)—I rise today in support of the Family Law Amendment (Shared Parental Responsibility) Bill 2005. This bill forms an integral part of the Howard government’s family law reforms, which aim at creating a much more accessible family law system which encourages the parties to a separation to, where possible, resolve their dispute outside a court. Our reforms also aim at ensuring that at all times parents remember the welfare of their children and ensure that that welfare is paramount in any decisions made which impact on their future.

As a former police officer, I have seen first-hand the heartache, emotions and hardships affecting not only the children but the parents of a broken marriage. When I was 13 years of age, my parents broke up. After moving back and forth to the family home, with seven different addresses over a three-year period, I can assure you that the emotional roller-coaster was quite one for me. Fortunately for me, my mum was a guiding light. She provided unbelievably for my older brother and sister and me, very regularly to the detriment of herself. I was able to visit and see my father, now passed away, as often as I liked, which was a key element in me staying on the right track. And here I am today.

It is a privilege to speak on this bill for and on behalf of the electorate of Kingston. This bill in particular is aimed at promoting the right of children to know both of their parents. This
is a right which cannot be underestimated. In years gone by, when the divorce rate in this nation was much lower, the right of Australian children to know both their parents went without saying. But what also went without saying was the benefit that dual parenting had on children.

Under the Family Law Act, as it currently stands, courts are required to put the best interests of the children first when considering custody arrangements. What I simply cannot understand, therefore, is how it is possible, except in situations where a child is at risk—I reiterate: except in situations where a child is at risk—for courts not to enforce meaningful access arrangements which facilitate strong relationships between the child and both of its parents. How can a relationship between a child and both of its parents not be in the absolute best interests of the child? I am not talking about token visits every second weekend and a couple of weeks during school holidays. The most meaningful relationships with children are formed during the difficulties they encounter in every day life: watching them do their homework and helping them, listening to how their day went at school, watching them play sport, and being a part of their growing up. A whole generation of parents is going through parenthood without ever having been afforded the opportunity to do those things, which means a whole generation of children is missing out on a meaningful relationship with one of their parents.

There is no doubt that relationships are difficult, even more so when there are children involved. The breakdown of relationships in these circumstances is devastating to all of the parties involved. This legislation is about making the law that little bit fairer. At the end of the day, no amount of legislation will stop parties to a failed relationship feeling hurt and angry and, in some cases—sadly—using the children of that relationship to hurt the other party. All we can do as legislators is to make the basis for those situations as fair as possible.

There has been no major reform to the Family Law Act since its inception in 1975. Over the past 30 years the way family breakdown is viewed and the level of family breakdown in the community have changed considerably, but this is the first time we have seen amendments to the legislation to make sure it adequately reflects the needs of separating parents and their vulnerable children in a new era. Schedule 2 of this bill strengthens the powers contained within the Family Law Act to deal with breaches of court orders. I have spoken to so many constituents who have expressed the view that the changes we make to ensure parents' access to their children are irrelevant if we do not also strengthen the enforceability. I have met so many constituents in my office who have shown me a court order which affords them the right to have access to their children—for example, every second weekend—but tell me it has been months since they have seen their children. When I have asked these parents why they have not returned to the Family Court, they have invariably told me that the court has very little power to do anything other than to pass out a slap on the wrist. Because we support the right of children to know both of their parents, not just in theory but in practice, we include in this bill the amendment contained in schedule 2, which gives the court a much wider range of powers to deal with these breaches. These include the ability to impose cost orders, bonds, make-up time and compensation.

Schedule 3 of the bill contains changes to court procedures to make the process less adversarial. The traditional adversarial system, which pits each party against the other in a court of law, is quite simply not appropriate when we are dealing with children and a family breakdown. We must encourage parties wherever possible to resolve their differences in a cooperative manner which may enable an amicable relationship between parents throughout their
children’s lives. The changes contained in schedule 3 are aimed at achieving just that. Schedule 4 ensures that separating and divorcing parents have access to counselling and dispute resolution services. This further supports the government’s policy of ensuring the availability of services that assist parents to resolve their disputes in an amicable fashion.

Schedules 5 and 6 implement recommendations of the Family Law Council to clarify the role of independent children’s lawyers as best interest advocates and to make the relationship between parenting orders and family violence orders clearer and easier to understand. Schedule 8 removes the terms ‘residence’ and ‘contact’ and replaces them with the term ‘parenting orders’, which emphasises the need to make the system more family focused.

More than one million Australian children have a parent living elsewhere. Even sadder than that is the fact that one in four never sees one parent or only sees them once a year. We cannot simply blame this sad statistic on the stereotype of the mum and dad who do not care about their parental role, which we so often hear about. With a number that large, you have to recognise that the longstanding failures in the system are contributing to the heartache; it is not just the stereotyping. This is a difficult problem. Any legislative arrangement which seeks to regulate the breakdown of a relationship will be a challenging one to reform, but this government does not shy away from the difficult problems, and it has done and will continue to do all that it can to assist families, especially children, in what are difficult times.

This bill is just one more step in our policy of family law reform. We recognise that the system is fundamentally flawed. Today with this bill we take another step towards fixing the system, along with the introduction of a national network of family relationship centres, which I lobbied the Attorney-General and the members of the cabinet very hard for. Fortunately for Kingston we have been and will be successful. There is also the raft of family law amendments that have already been passed by this parliament. We seek to make family breakdowns something which is governed by a fair and equitable system and we seek to make them something which is in decline.

What is more, this government has more to come. We will implement across-the-board reforms to the child support system in this country and we will continue to implement changes which seek to resolve disputes associated with family breakdown in an amicable way before they reach the courtroom. Never in Australia’s history have we seen such a high level of family breakdown, and never in my history have I seen such animosity and genuine hatred between separating parents who at some point loved each other, created a child and brought a child into the world. These children are our future, and we cannot afford to experiment on them with a system that risks not affording them the right to develop a meaningful relationship with both their parents. We cannot know today what the impact of a failing family law system will be on our children and grandchildren. I for one would rather not find out. For that reason, I am a huge supporter of this government’s attempts to fix the system. For that reason, I commend the bill to the House.

Ms OWENS (Parramatta) (8.23 pm)—I rise to speak on the Family Law Amendment (Shared Parental Responsibility) Bill 2005, a bill which we on this side of parliament welcome, although not without some reservations. The bill makes substantial reforms to the Family Law Act, many of them welcomed not just by people on this side of the House but by the many people who gave evidence to the committee.

MAIN COMMITTEE
The bill reforms the act by introducing a rebuttable presumption of shared parental responsibility. It requires a court to consider equal, significant and substantial shared time with both parents. It introduces compulsory mediation before litigation, with limited exceptions. It introduces less adversarial court processes for cases involving children, promotes parenting plans as agreed between parents without lawyers, provides the legislative basis for a major increase in family relationship services through the creation of 65 family relationship centres and makes a number of other changes, including new penalties for noncompliance with orders, vexatious complaints and false allegations of domestic violence.

We are pleased to see that this government has gone some way towards addressing the concerns over family law which Labor has raised over the past years, particularly in its contribution to the Every picture tells a story report—in particular, the increased emphasis on parental responsibilities in this draft of the bill and the emphasis on the rights of children following a family breakdown. We are pleased to see the government support Labor’s push for these important elements that are now included in the bill.

Labor believes that the reform package as a whole has a lot of positives, including the shift away from adversarial litigation over children and the $400 million injection into support services, including the establishment of family relationship centres, which could have benefits for separating and separated families.

Over the past few years, I have met many people in my electorate of Parramatta who have spoken to me with rage and grief about their enormous difficulties and hardships faced under the current system. Those people include both men and women, each suffering after the break-up of their families and struggling with developing new relationships that include both partners and their children. They talk about the protracted, burdensome, costly nature of the legal system; the unpredictability of court delivered outcomes under this adversarial system that we currently have; the disempowerment of the parties under the court system; and the huge financial and emotional cost which court proceedings take on parents and their children at the most difficult and volatile point of their lives. I have seen first-hand how much damage that adversarial system can wreak on both parties as over a number of years they strive to find the worst elements in each other to bolster their case in court. What both children and their parents need at that most volatile point of their lives is certainty, safety and security.

Whether the Howard government can truly deliver on the implementation of these reforms and provide substantive and long-lasting reforms is highly questionable given its past and ongoing politicising of one of the centrepieces of the bill, the family relationship centres. It is a centrepiece because mediation under this bill becomes compulsory—three hours free mediation at the family resource centres before a couple can go to court. I am not convinced that three hours will be enough in many cases, and there are many important questions that remain unanswered regarding the quality of the service—for example, what level of professional accreditation and/or training will be required of staff, how will the government ensure high-quality and impartial advice is given to families, how will the centres deal with cases involving violence, and what training will their staff have in dealing with cases of domestic violence? Will they be placed in the areas of most need or areas of most electoral benefit to the coalition government?

Other questions remain unanswered regarding the operation and assessment of the family relationship centres themselves, such as the following. Will there be waiting lists? Of what
duration? Will people waiting for their three hours of free mediation be forced to wait several months or pay for the services elsewhere? How will the performance of the family relationship centres be assessed? The government policy claims to measure the performance of the centres simply on throughput rather than quality of the service provided. That could make it impossible for cases to avoid being churned through—more like a sausage factory than a high-quality service. I say this knowing that at this stage we still have not seen the detail for the setting up and the management of the family relationship centres, yet we are considering them in this bill tonight. We have seen in the last months the breakdown of the migrant settlement services and the Job Network services, both set up on similar models to that of the family relationship centres. This also raises the issue of whether we will see effective delivery of the $400 million program outlined in this bill without a blueprint in place at this time in this complex and delicate area of law.

The government has also created a dangerous conflict of interest at the heart of these centres by tying funding to the number of people who are seen rather than the quality of the service. The performance agreements are based on the quantity of parenting agreements made rather than on the quality—funding by a churn rate rather than by outcomes or, if you like, outputs rather than outcomes. We are concerned on this side of the House that with this kind of performance agreement in place we might not see the quality of service that our families need immediately. If the quality of service is not there upfront, considerable damage can be done in the long term. We still do not have enough information on how these family resource centres will be overseen by the government.

The government has also clearly compromised its ability to create an effective dispute resolution system by politicising the process. A panel of marginal seat Liberal MPs was appointed to oversee the selection and performance criteria of the family relationship centres. Appointing a political panel to decide these selection criteria, including performance criteria and location, smacks a little of pork-barrelling. It is no great coincidence in this pork-barrelling exercise that six of the eight committee members are in marginal seats.

The consequences of missing out seats, including my own seat of Parramatta, could mean that a parent may have to make a lengthy trip to the nearest family relationship centre—for people in my area, as far as Penrith—for the compulsory mediation and make onerous child-care and travel arrangements and pay associated costs. This is in place of the current convenience of being able to choose to attend mediation in the Family Court down the road. Such problems resulting from the potential commercialisation of the family law system through the setting up of the new family relationship centres need to be addressed now and not as an ad hoc and retrospective measure when it may be too late for many separated families and the damage has already been inflicted.

We also need greater clarity now. The government has promised three free hours of counselling for all separated couples using family relationship centres, but this is not enshrined in the legislation and we may not be able to rely on this at a later time. If a government later on decides that that mediation is not free then families who are already struggling with having to set up two households under extreme financial difficulties may have to pay for this service further down the track. Labor is also cautious of potential dangers which could arise from privatisation and the profit imperative of the family relationship centres, particularly given the
recent reports about migrant settlement services and the Job Network operating under similar kinds of guidelines.

We also have some concern about domestic violence. The government’s recent actions in ordering a new inquiry into speeding up violence cases in the Family Court is welcome, but it does call into question its past refusal to address Labor’s concerns regarding the violence provisions of this bill. When we look at the violence provisions of the bill, we see that the Howard government is once again regulating for the worst case scenarios—those very few where people bring false allegations of violence.

Labor is calling for the deletion of the new definition of family violence in this bill, which requires the victim to prove that they reasonably fear or are reasonably apprehensive about their personal wellbeing or safety. A potential problem which arises from this objective test is that it will not involve a consideration of the personal circumstances of the victim, such as a history of violence or abuse, which might make a person more inclined to feel fear in circumstances where another person might not. It is unreasonable to require a person to attend compulsory mediation with someone they fear, whether or not that fear is reasonable. Fear puts the parties in unequal bargaining positions, which risks creating unfair outcomes. The result of such mediation must be questionable in these circumstances.

Labor calls for the deletion of the word ‘reasonably’ and a move back to the current definition as well as the amendment of the definition of violence so it includes circumstances in which a child witnesses violence or is exposed to violence. We also suggest that the government look at the state model, which defines domestic violence by the actions of the perpetrator rather than of the victim of those actions. In other words, domestic violence relates to the actions that one person commits against another and not necessarily whether or not the victim of those actions feels or could reasonably feel fear. Labor also calls for a provision demanding accreditation quality standards for the family relationship centres before dispute resolution becomes compulsory, especially with qualifications regarding screening for and handling of violence.

Labor is also looking for the deletion of the provision concerning cost penalties for false allegations of violence. Evidence suggests that the underreporting of family violence is a much bigger problem than false allegations and that these cost orders may dissuade people from raising genuine concerns about violence. The provision would introduce a cost penalty against people who knowingly make false allegations. The provision requires that a court must order a party to pay some or all of the legal costs of the other party if it is reasonably satisfied that they knowingly made a false allegation or statement.

There is a concern that punishing people who make false allegations of violence—although that is absolutely justified—may dissuade those who have genuine concerns about violence from raising them. Family violence can be notoriously difficult to prove and people might feel that it is not worth the risk that they will not be able to substantiate their allegations and thus face a penalty. Evidence suggests that the underreporting of family violence is a much bigger problem than false allegations. This section of the bill could have the effect of capturing many innocents in its net and punishing the true victims of family violence, who will be too scared to speak up because of possible cost penalties and related fears. The realities of underreporting violence are being ignored in favour of low context policies which assume that everyone
can be treated the same, in effect punishing the many because of the few isolated cases where false allegations of violence are made.

But there is substantial good in this bill. We welcome the move towards reducing litigation and the focus on family dispute resolution through non-court means. However, if the government imposes on people the obligation by introducing compulsory family dispute resolution before they are able to commence court litigation, it needs to provide the means to implement this effectively and fairly. The government has said that the first three hours of mediation will be free. However, this is not yet found in the bill. It is not found in the bill that that mediation will be free indefinitely. Labor calls for an amendment inserting a provision guaranteeing that three hours free consultation so that the compulsory nature of family dispute resolution is tied to a government promise that this will be available and free in the future.

Also, the new requirement that all applicants for parenting orders attend family dispute resolution sessions and that the applicant must provide a certificate which says that the applicant has attended or tried to attend mediation, and says whether or not in the opinion of the practitioner both parties made a genuine effort to resolve the issues in the dispute, creates some difficulties. Labor has serious concerns about how certification of non-genuine participation might work in practice—ranging from, for example, the opinion of a single practitioner, lack of standards about meaning of ‘a genuine effort’, quality control mechanisms and uncertainties surrounding the effectiveness or otherwise about screening processes for cases involving family violence. A person may appear to be participating reluctantly not because they are obstructive but because they feel intimidated. Therefore, that section may become a backdoor way of turning the Family Court into a costs jurisdiction. What needs to be recognised and enshrined in this legislation is that each relationship is complex and that the government cannot and should not always prescribe answers for one size fits all. In certain instances the court will remain the best realm to determine what is in the best interests of the child.

We on this side of the House are glad that the government has moved when drafting this bill some way from its past focus on the rights of parents towards a greater recognition of parental responsibility and the best interests of the child being the paramount consideration when determining parenting disputes. The new section 60CC comes directly from Labor’s suggestions. It recognises that parenting is a two-way street, that parenting rights come with parental responsibilities. Labor has called for explicit consideration of how a parent fulfils obligations to the child in considering custody arrangements in the court. Labor has been strong in calling for a two-way street.

In the original exposure draft the government introduced the new requirement in section 60CC to consider the extent to which a parent has fulfilled or failed to fulfil his or her responsibilities as a parent, including whether a parent has taken or failed to take the opportunities to participate in making decisions about major long-term issues, whether the parent has spent time with the child and communicated with the child, the extent to which a parent facilitates the other parent taking up these opportunities and the extent to which a parent fulfils or fails to fulfil the obligations to maintain the child. They are excellent changes. They ensure that a parent who really is using the child to bludgeon the other parent will be assessed on their capacity as a parent and their relationship with the child in any further claims that they make.
We are also pleased with the changes to the test for the best interests of the child. The new bill, the bill we are considering tonight, has changed considerably from the earlier drafts, and it introduces a hierarchy of factors with primary considerations and additional considerations. The primary considerations are the benefit to the child of having a meaningful relationship with both parents and the need to protect the child from abuse, neglect or violence. These are also excellent changes.

Labor are positive, on the whole, about the government’s attempts in this bill to make serious reforms to family law, but we believe there are still some issues that need to be addressed and we have addressed those in our second reading amendment. But on the whole, it is a great change, it is a great step forward for parents seeking to raise their children apart, and we commend the bill.

Mrs HULL (Riverina) (8.40 pm)—It is with great pleasure that I rise this evening to support the Family Law Amendment (Shared Parental Responsibility) Bill 2005 in its entirety. I welcome my colleague Cameron Thompson, the member for Blair, who is sitting next to me. He played an extremely valuable and important role and gave an enormous amount of time, energy and effort to assist the House of Representatives Standing Committee on Family and Community Affairs to come to a bipartisan agreement. That committee was chaired by me. The deputy chair was Mrs Julia Irwin. The other members were the Hon. Alan Cadman, Mrs Trish Draper, Mr Peter Dutton, Ms Jennie George, Mr Chris Pearce, Mr Harry Quick, Mr Cameron Thompson and, for a short time, the Hon. Roger Price and the Hon. Graham Edwards.

The committee was responsible for the bipartisan report *Every picture tells a story: inquiry into child custody arrangements in the event of family separation*. It was the first real and honest appraisal of the issues confronting families across Australia not only in family separation but also in child support. As my very learned colleague next to me would attest, we attended many hearings across Australia and heard of an extreme amount of pain and anguish in all facets of family breakdown. In the initial stages of this inquiry, there were several thoughts of and maybe a few attempts at undermining the inquiry, with the thought that it could not succeed. However, after the first committee hearing, with the pain and anguish of the people who appeared before us, it soon became very apparent that we had a committee that would work diligently together in order to achieve an outcome that was in the best interests of the children of Australia. That is what we were able to achieve, and that needs to be clearly recognised in this debate.

As the debate has gone on, I have heard the excellent work, the enormous time and effort spent and of the genuine intentions of members of the Labor Party on the committee—I speak of Ms George, Mr Price, Mr Quick and Mrs Irwin, the deputy chair—being undermined time and time again. What I am seeing here is the decision of the shadow Attorney-General to try to take us back to before *Every picture tells a story*. I find that absolutely unforgivable. There is an understanding across Australia from parents, whether they like this system or not, that the government and the opposition agreed that the system as it currently stands is not acceptable to any person in Australia. What we have now is a process of undermining the very good work of both the opposition and the government in coming to a very sensible bipartisan report. Everybody put their signature on it; everybody recognised their very important role in this. Now we see it being undermined. If you are going to put very good, very diligent, articu-
late and extremely clever members on committees and then simply turn around and not accept what they have come to agree on, it is just a mindless waste of time.

I have continued with this process simply because, once you hear the pain and anguish of the Australian people and once you experience and witness the despair and confusion of Australian children, you cannot let this go. You know that this is our one and only opportunity to make a difference in those children’s lives. Too many of the children who came before us have suffered under laws under governments of both political persuasions that have not been conducive to them knowing and experiencing, all things being equal, love, care and nurturing from both mother and father after parental separation. So when I look at some of the issues raised and the amendments suggested by the shadow Attorney-General it seems obvious to me that she is not a sportswoman, because if you play sport you get to the position where you recognise that finally the umpire’s decision is the way it is.

On this committee that produced the report *Every picture tells a story*, there was bipartisan support and a bipartisan result, which we are all very proud of because it was a very difficult inquiry. Then we moved into the Standing Committee on Legal and Constitutional Affairs process and went through the painstakingly time-consuming consideration of the Attorney-General’s response to *Every picture tells a story*. We ended up with the majority of that committee also putting an enormous amount of effort, energy and understanding into the whole process. And the majority of that committee recognised that what we were doing was the right thing.

But here we have the shadow Attorney-General wanting to take us back to the old days. In essence, the amendments that the shadow Attorney-General has put up would mean that nothing would change. I simply cannot accept that when we have put in this enormous amount of effort and when families across Australia are waiting for this report and for these changes to be put into legislation—as I said, not because everyone agrees with what we are saying but because everyone knows that what we currently have is not acceptable.

As Chair of the House of Representatives Standing Committee on Family and Community Affairs I saw great pain and despair; they were presented to me as chair and to all of the other members of that committee during our four-month inquiry into the issue. Ever since that committee reported, my fellow committee members from both sides and I have been inundated with the stories and experiences of mothers, fathers, grandparents, other family members and, most importantly, children who have gone through marriage and family breakdowns. Some of those stories have caused us to shed tears, sharing the pain of families around the nation. By the end of the inquiry everybody had determined that they were going to see these changes through. It was bipartisan: everybody determined that they were going to see these changes implemented, changes that will assist families and ensure that the best interests of the children are of paramount concern—not the best interests of a parent, of a father or a mother, but the best interests of the children.

What we have here is a bill that amends the Family Law Act 1975 to implement significant recommendations from the *Every picture tells a story* report that were backed up and supported by the legal and constitutional affairs committee’s response to the minister’s response. I mean, how much consultation can you actually have? We have a report, we have a response to the report and then we have an inquiry on the response, and then we have a response to the inquiry on the response to the report. How many reports do you need to get validation that
people expect and want change? They want these changes. The shadow Attorney-General and, obviously, some of the other speakers in the House that I have heard during this debate have not understood the real intent behind these changes.

As I said, the Standing Committee on Legal and Constitutional Affairs undertook to accommodate and respond to the shadow Attorney-General, as much as they could possibly do. I recall—it could not be a privileges issue to mention this—asking why we should accommodate these changes if there was going to be a dissenting report regardless of how much the committee members had worked together to try to achieve a unanimous and bipartisan outcome from the legal and constitutional affairs committee.

Today, not only have we seen these great family law changes being debated, but we have also seen the announcement of the child support changes at a press conference. The child support changes today have been shared. Here we have some real outcomes that every person, from the opposition and the government, on the committee that put together Every picture tells a story fought hard for, and has stayed true to, to the very end. We have child support changes which are going to come into place in three tranches, with the final one not coming into play until 1 July 2008.

At first I was a little concerned because I know that there are a lot of families out there who would like to see these child support changes implemented. That is not because they believe that everyone will be a winner; it has not been promoted that everyone will be a winner—there will be as many losers as there are winners. But we will have a scientific analysis and formula that clearly denotes why you are paying this amount of money for your children. It is the one thing that we do not have now—an answer to a question like: ‘Why is that child over there worth $5 or less a week and this child over here worth $350 a week?’ Nobody can understand that, and it creates an enormous amount of angst and concern amongst couples that have separated, and you can understand why that happens.

In essence, an opposition and government committee agreed to come together for the interests of Australian children. The committee worked tirelessly to ensure that that came about. They came up with a very good report and had the follow-up report. They are now witnessing the child support changes that we agreed on. Patrick Parkinson and his team did the child support review in the interests of children; fantastic work from him and his team. All of the affected players represented on that team recognised that they had to put their differences aside and start to get on with one another to achieve an outcome that was fair and reasonable. Today we have a great package delivered to all committee members, those on the opposition benches and those on the government side as well. They deserve this, because they worked hard and they have stayed true to the cause. So it is very disappointing to come in and see this raft of amendments that take us back to nowhere-land. This bill promotes the rights of children. Do not forget that. This bill’s intention is clearly to look after the rights of the child, and those rights include the right to know both parents.

The bill encourages couples who are separated to resolve parenting arrangements outside of the court system. I have to thank the Attorney-General, because it is difficult, when you have legal training, a legal background and you have been in this position for a long time, to recognise that there is a definite need to try to resolve things outside the legal system, all things being equal.
We know—nobody denies—that some of these people are simply not going to be able to resolve their issues outside of the legal system; but we are going to provide them with the opportunity. When the family relationship centres are rolled out, they will have key performance indicators. They are going to provide people with the best chance to be able to resolve these issues out of a courtroom. That is the most sensible and the most productive outcome for the children of Australia.

This bill has major changes in it. There will be a new presumption of equal shared parental responsibility. I am sticking with equal shared parental responsibility; I am not moving from it. And I do not think my colleague the member for Blair will move from that either. It is so important to have those words in there. I see one of these amendments tries to look at changing that wording. This new presumption of equal shared parental responsibility will enable both parents to have an equal role in making decisions about major long-term issues for the benefit of their children—again, all things being equal.

We understand that there is violence, domestic violence, that takes place in homes across Australia, but the majority of families are in a position of being able to reconcile and resolve their differences if they are given the opportunity. That is what this bill is doing: it is providing the opportunity through a raft of changes, including family relationship centres, a new child support system, some very solid backup support in the Child Support Agency and a whole new look at the way the agency performs—$850 million worth of changes, in fact. These are long overdue but very welcome.

There is also a requirement for the court to consider whether children spending equal time with both parents is practicable and in the best interests of the child. If equal time is not appropriate, the court must consider the substantial and what I believe should be the significant time. Parenting advisers dealing with parents in dispute resolution outside the courts must also raise these issues with both parties. But not only do we have parenting advisers having to raise these issues; we now have family law court judges having to do the same—something which is long overdue.

I want to take the time to pay tribute to the Federal Magistrates Court and put in a plug for the court. In my observation—and I have done a huge amount of observation of these cases in the Parramatta family law court, the Sydney family law court, the Cairns family law court and the Federal Magistrates Court—the Federal Magistrates Court is doing a mighty job already of taking on the interests that the old committee raised in Every picture tells a story and is already putting these into place and delivering very good outcomes. But what it needs is more funding. I would like to see all of these cases going through the Federal Magistrates Court where possible, because I think it is the perfect body to be able to really deliver what the committee intended in the first place, which is to have a tribunal. If you are not going to have a tribunal, the very next best thing is the Federal Magistrates Court. Let us get out of the family law courts; let us get into us all taking responsibility for the outcomes for our children. It is as much the courts’ responsibility to ensure that children have fairness and equity in respect of the way in which they are able to meet and deal with their parents after separation.

The primary factor when deciding what is in the best interests of the child will be the right of a child to know their parents and to be protected from harm. This is something that we are very strong on. Every committee member stated their case. They were very concerned about domestic violence and protecting children from harm. But you would not think that was the
case when you hear some of the speeches. Every member of the Legal and Constitutional Affairs Committee was absolutely hell bent on ensuring that no Australian child should ever be put in danger. So, lest there be any thought that all of these committees and all these inquiries have not focused and centred on family violence and the possibility of family violence and on the best interests of children and partners in cases of family violence, if you are thinking at all that there was no credence paid to this issue, let me tell you that you are wrong. So many hours were taken up in looking at, discussing and raising concerns about how we were protecting the children of Australia.

Basically, what we have here is an amendment to the existing definition of ‘family violence’ to make it clear that any fear of apprehension of violence must be reasonable, because not only do we have real family violence, we also have allegations—whether or not we want to agree or believe that we do—of family violence. What we cannot have is someone abusing the system by making allegations of abuse, which then leaves someone else, who is exposed to family violence, exposed without assistance. With many domestic violence orders, that is what occurs—people who really do experience family violence are left exposed and in a very precarious situation.

I support the bill before the House. I cannot applaud the Attorney-General enough, because I think he has picked up and run with the sentiments of all these committees. (Time expired)

Mr CAMERON THOMPSON (Blair) (9.00 pm)—Having heard from the person whose expert chairmanship helped generate this whole issue, I move:

That the debate be now adjourned.

Question agreed to.

Main Committee adjourned at 9.01 pm
QUESTIONS IN WRITING

Advertising Campaigns
(Question No. 1390)

Mr Bowen asked the Minister representing the Minister for Fisheries, Forestry and Conservation, in writing, on 23 May 2005:

(1) What sum has been spent on advertising on the Government’s Tasmanian Forest Policy announced on 13 May 2005.

(2) What sum and what proportion of the expenditure on the campaign has been funded by the (a) Tasmanian Government and (b) Commonwealth Government.

(3) In which newspapers and on which television stations and radio stations have advertisements been placed.

Mr McGauran—The Minister for Fisheries, Forestry and Conservation has provided the following answer to the honourable member’s question:

(1) $756,196.01

(2) (a) $124,672.42; 16.5 percent

(b) $631,523.59; 83.5 percent

(3) Television Stations:
   WIN Tasmania Aggregated
   Southern Cross Hobart
   Southern Cross Launceston
   Southern Cross Tasmania Aggregated

Newspapers:
   Sydney Morning Herald
   The Melbourne Age
   The Australian Newspaper
   The Advocate – Burnie
   The Circular Head Chronicle
   The Hobart Mercury
   The Huon News
   The Launceston Examiner
   The North Eastern Advertiser
   The Tasmanian Business Reporter

Radio Stations:
   Nil

Telecommunications Service Providers
(Question No. 1759)

Ms Hoare asked the Minister representing the Minister for Communications, Information Technology and the Arts, in writing, on 22 June 2005:
(1) Is the Minister aware (a) of the practice in the telecommunications industry known as ‘slamming’ whereby telecommunications service providers (TSPs) switch account holders from another TSP to themselves without the customer’s permission and (b) that a large number of Telstra account holders in the Newcastle and Lake Macquarie region were victims of ‘slamming’ in May 2005.

(2) Is the Minister aware Telstra was unable to (a) reinstate its customers’ accounts immediately it became clear they had been switched to another TSP and (b) identify which TSP the accounts had been switched to because of privacy considerations.

(3) Can the Minister explain why the Telecommunications Act should require Telstra to refuse to discuss accounts held by other TSPs in the circumstances where the accounts had been switched from Telstra without the account holders’ express consent.

(4) Why is the TSP now holding the account protected by the Act if the former Telstra account holder authorises Telstra to retrieve their account.

(5) Will the Minister take action to ensure TSPs identified as engaging in the activity of ‘slamming’ are prosecuted; if not, why not.

(6) Will the Minister amend the legislation to allow TSPs to retrieve their former account holders with appropriate authorisation from the account holder; if not, why not.

Mr McGauran—The Minister for Communications, Information Technology and the Arts has provided the following answer to the honourable member’s question:

(1) (a) and (b) I am aware of the practice known as ‘slamming’ and that a number of Telstra account holders in the Newcastle region have claimed to have been transferred to another telecommunications service provider without their consent in May 2005.

Telstra has advised that it is also aware of these incidents on a significant number of its customers in the Newcastle area. Telstra has advised that it issued warnings via the media to customers in the area to be wary of telemarketing calls if they were unsure about who was calling them. Telstra has advised that it investigated these complaints and asked the ‘gaining’ carrier or service provider to provide proof that the customer authorised their respective transfer of service away from Telstra.

(2) (a) and (b) Telstra has advised that it is unable to automatically reinstate customers when they advise Telstra that they have been ‘churned’ to another carrier without their consent. Telstra has advised that it will investigate and is obliged to allow the gaining carrier or service provider to provide proof that the customer was legitimately churned away from Telstra. Telstra has requested gaining carriers or service providers to provide a valid Transfer Authority Form authorising the churn for each affected customer. If the carrier or service provider is unable to supply a valid Transfer Authority Form in the required timeframe Telstra will request the carrier or service provider to reverse the churn and return the customer’s service back to Telstra.

(3) Telstra has advised that while it will act on behalf of the customer to seek to remedy the situation, it is not able to discuss with the customer his or her account with the gaining service provider. These account details, including charges and bill amounts, are a matter between the service provider and its customer.

Under Part 13 of the Telecommunications Act 1997, which protects the privacy of personal information and prohibits the disclosure or use of such information by a customer’s service provider except in certain specified circumstances, including where the customer gives express consent, Telstra must not use any information it holds for a purpose other than that for which it was disclosed.

(4) If a person was churned to another service provider without his or her authorisation, Telstra can request that provider to reverse the churn, as indicated in the answer to part (2) of the question. If the transfer to another provider was authorised but the consumer wishes to return to Telstra, then
this can be effected as a further transfer in a timely manner, subject to the provision of a valid Transfer Authority Form.

(5) Depending on the circumstances, ‘slamming’ may constitute an offence under Part V of the Trade Practices Act 1974 or state or territory fair trading legislation. Fines may be imposed for contravening a provision of Part V and a person may be prosecuted by the Australian Competition and Consumer Commission (ACCC) for the commission of an offence. It is appropriately a matter for the ACCC to determine whether to prosecute on a case by case basis.

(6) Legislative amendment is not necessary. There are processes in place under three industry codes of practice developed under the auspices of the Australian Communications Industry Forum (ACIF), ie the Customer Transfer code, the Commercial Churn code and the Pre-selection code, for addressing unauthorised transfers and enabling consumers’ pre-selection choices to be correctly implemented and remedied where errors have occurred.

The Customer Transfer code, which is currently under review, sets minimum standards to ensure all transfers of service that occur are authorised and verified. The code is being reviewed to strengthen consumer protection, including verification of authorised representatives, options available regarding marketing calls and alignment with the Privacy Act 1988 and state and territory legislation on fair trading and door to door sales.

The Commercial Churn code requires that service providers must take immediate action to rectify an invalid churn in accordance with a customer’s wishes, and notify the customer of what has happened. If a customer has suffered a direct financial loss as a result of the unauthorised transfer, he or she can complain to the service provider and provide any relevant substantiation of that claim.

The Pre-selection code sets out the operational procedures for implementing customer’s pre-selection choices for new services and for changes due to the customer’s change of address, phone number of cancellation of a service. The code also sets out the procedures for authorising a customer’s pre-selection choice and the reversal process for correcting unauthorised transfers.

Telstra has advised that any customer who considers he or she may be the victim of an unauthorised transfer can report the incident to the Telstra SalesWatch Hotline on 1800 260 270.

Commonwealth Property
(Question No. 2007)

Mr Bowen asked the Minister representing the Minister for Communications, Information Technology and the Arts, in writing, on 10 August 2005:

(1) What is name and address of each vacant property under the control of the department and each agency in the Minister’s portfolio (ie properties not actively used by the agency and not leased out).

(2) In respect of each vacant property, (a) why is it not being actively used and (b) what action plans are in place to have it actively used.

Mr McGauran—The Minister for Communications, Information Technology and the Arts has provided the following answer to the honourable member’s question:

(1) Telstra and Australia Post both have a number of vacant properties under their control. Details are given in the accompanying list. The Department of Communications, Information Technology and the Arts nor any of the other agencies under the Communications, Information Technology and the Arts portfolio have any vacant properties under their control.

(2) Does not apply other than for Telstra and Australia Post.
TELSTRA

(1) The following Telstra properties were vacant at the time this answer was provided:

<table>
<thead>
<tr>
<th>State</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>VIC</td>
<td>Swan Hill 3585 - 5 Pritchard St</td>
</tr>
<tr>
<td>QLD</td>
<td>St George 4487 - Anne &amp; Alfred St</td>
</tr>
<tr>
<td></td>
<td>Roma 4455 - 55 Mc Dowall St</td>
</tr>
<tr>
<td>WA</td>
<td>Northam 6401 - Suburban Rd</td>
</tr>
<tr>
<td>SA</td>
<td>Modbury 5092 - 132 Reservoir Rd</td>
</tr>
<tr>
<td>NSW</td>
<td>Bangalow 2479 - 23 Lismore Rd</td>
</tr>
<tr>
<td></td>
<td>Bellingen 2454 - Bridge St</td>
</tr>
<tr>
<td></td>
<td>Cootamundra 2590 - 1 Mackay St</td>
</tr>
<tr>
<td></td>
<td>Hay 2711 - 381 Murray St</td>
</tr>
<tr>
<td></td>
<td>Jerilderie 2716 - 8 Jerilderie St</td>
</tr>
<tr>
<td></td>
<td>Merriwa 2329 - 80 Bettington St</td>
</tr>
<tr>
<td></td>
<td>Trundle 2875 - 101 Forbes St</td>
</tr>
<tr>
<td></td>
<td>Tumbarumba 2653 - Maragle Creek Rd</td>
</tr>
<tr>
<td></td>
<td>Tumut 2720 - 30 Carey St</td>
</tr>
<tr>
<td></td>
<td>Young 2594 - 44 Lachlan St</td>
</tr>
</tbody>
</table>

(2) Telstra has an active accommodation strategy for its property portfolio for both leased and owned premises.

- All properties are reviewed every 6 months by Telstra’s Real Estate & Accommodation Group to meet the constantly changing operational needs of Telstra’s communications business.
- The majority of Telstra’s office space around Australia is located in premises leased from private companies.
- Any freehold properties that become partly vacant and are surplus to Telstra’s business requirements are included in Telstra’s annual divestments program.

AUSTRALIA POST

(1) The following Australia Post properties were vacant at the time this answer was provided:

- Chatswood Mail Delivery Centre, 28 Smith Street, CHATSWOOD NSW 2076.
- Fairfield Post Office, 92 Arthur Street, FAIRFIELD VIC 3078.

(2) Australia Post intends to sell both properties.

Legal Services

(Question No. 2923)

Ms Roxon asked the Minister for Defence, in writing, on 8 December 2005:

(1) For each financial year since 1999-2000, what sum has the Minister’s department spent on services provided by law firms on matters associated with the Australian Submarine Corporation.

(2) Which law firms have been responsible for providing these services.

(3) Which partners or principals of those firms have been responsible for undertaking or supervising these services.

(4) For each financial year since 1999-2000, what sum has the department been billed for services undertaken or supervised by those partners or principals.

(5) What has been the nature and purpose of legal services provided to the Minister’s department in relation to the Australian Submarine Corporation.
Dr Nelson—The answer to the honourable member’s question is as follows:

(1) 1999-2000 - $210,691.85
    2000-01 - $1,237,942.46
    2001-02 - $1,700,360.23
    2002-03 - $3,149,341.93
    2003-04 - $2,289,667.85
    2004-05 - $321,937.70

Note: These figures include fees and disbursements.

(2) Australian Government Solicitor (AGS) and Clayton Utz.

(3) The following lawyers were responsible:

AGS:
Mr Barry Leader;
Ms Linda Richardson;
Mr Scott Slater;
Mr Andrew Miles;
Mr John Berg;
Mr Harry Dunstall;
Mr Kenneth Eagle;
Mr Derek Fittler; and
Mr Ohad Katz.

CLAYTON UTZ:
Mr Paul Armarego;
Mr Robert Cutler;
Mr Brian O’Callaghan;
Mr Doug Jones;
Ms Caroline Lovell;
Mr Richard Morrison;
Mr Wal Jurkiewicz;
Mr Peter Byrne;
Ms Caroline Bush;
Mr Owen Hayford; and
Mr Jamie Doran;

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr Barry Leader</td>
<td></td>
<td>7,323.50</td>
<td>125,262.00</td>
<td>46,206.50</td>
<td>715.00</td>
<td></td>
</tr>
<tr>
<td>Ms Linda Richardson</td>
<td></td>
<td>357.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mr Scott Slater</td>
<td></td>
<td>48,648.50</td>
<td>4953.50</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ms Linda Richardson</td>
<td></td>
<td>268.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mr Andrew Miles</td>
<td></td>
<td>35,782.59</td>
<td>13,029.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mr John Berg</td>
<td></td>
<td>35,782.59</td>
<td>13,029.00</td>
<td>7,657.50</td>
<td>1,944.00</td>
<td></td>
</tr>
<tr>
<td>Mr Harry Dunstall</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>14,238.50</td>
</tr>
</tbody>
</table>
### (5) Legal services have been provided for matters relating to:

- acquisition, upgrade and modification of the submarine capability;
- through-life support of the submarine capability;
- resolution of claims involving 300/600 weld defects and other claims;
- resolution of claims relating to intellectual property rights involving the Collins Class submarine;
- Australian Submarine Corporation’s (ASC) facilities licence;
- a licence agreement for the ASC with respect to the Minehunter project;
- relationship between Defence and the ASC; and
- proposed sale of the ASC.