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SITTING DAYS—2006

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- **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

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<td>Washer, Malcolm James</td>
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<td>New England, NSW</td>
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<td>Wood, Jason Peter</td>
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PARTY ABBREVIATIONS
ALP—Australian Labor Party; LP—Liberal Party of Australia; Nats—The Nationals; Ind—Independent; CLP—Country Liberal Party; AG—Australian Greens

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

Prime Minister
Minister for Trade and Deputy Prime Minister
Treasurer
Minister for Transport and Regional Services
Minister for Defence
Minister for Foreign Affairs
Minister for Health and Ageing and Leader of the House
Attorney-General
Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council
Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House
Minister for Immigration and Multicultural Affairs
Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues
Minister for Family, Community Services and Indigenous Affairs
Minister Assisting the Prime Minister for Indigenous Affairs
Minister for Industry, Tourism and Resources
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate
Minister for the Environment and Heritage

The Hon. John Winston Howard MP
The Hon. Mark Anthony James Vaile MP
The Hon. Peter Howard Costello MP
The Hon. Warren Errol Truss MP
The Hon. Dr Brendan John Nelson MP
The Hon. Alexander John Gosse Downer MP
The Hon. Anthony John Abbott MP
The Hon. Philip Maxwell Ruddock MP
Senator the Hon. Nicholas Hugh Minchin
The Hon. Peter John McGauran MP
Senator the Hon. Amanda Eloise Vanstone
The Hon. Julie Isabel Bishop MP
The Hon. Malcolm Thomas Brough MP

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

Minister for Justice and Customs and Manager of Government Business in the Senate  Senator the Hon. Christopher Martin Ellison
Minister for Fisheries, Forestry and Conservation  Senator the Hon. Eric Abetz
Minister for the Arts and Sport  Senator the Hon. Charles Roderick Kemp
Minister for Human Services  The Hon. Joseph Benedict Hockey MP
Minister for Community Affairs  The Hon. John Kenneth Cobb MP
Minister for Revenue and Assistant Treasurer  The Hon. Peter Craig Dutton MP
Special Minister of State  The Hon. Gary Roy Nairn MP
Minister for Vocational and Technical Education and Minister Assisting the Prime Minister  The Hon. Gary Douglas Hardgrave MP
Minister for Ageing  Senator the Hon. Santo Santoro
Minister for Small Business and Tourism  The Hon. Frances Esther Bailey MP
Minister for Local Government, Territories and Roads  The Hon. James Eric Lloyd MP
Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence  The Hon. Bruce Frederick Billson MP
Minister for Workforce Participation  The Hon. Dr Sharman Nancy Stone MP
Parliamentary Secretary to the Minister for Finance and Administration  Senator the Hon. Richard Mansell Colbeck
Parliamentary Secretary to the Minister for Industry, Tourism and Resources  The Hon. Robert Charles Baldwin MP
Parliamentary Secretary to the Minister for Health and Ageing  The Hon. Christopher Maurice Pyne MP
Parliamentary Secretary to the Minister for Defence  Senator the Hon. John Alexander Lindsay (Sandy) Macdonald
Parliamentary Secretary (Trade)  The Hon. De-Anne Margaret Kelly MP
Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs  The Hon. Andrew John Robb MP
Parliamentary Secretary to the Prime Minister  The Hon. Malcolm Bligh Turnbull MP
Parliamentary Secretary to the Treasurer  The Hon. Christopher John Pearce MP
Parliamentary Secretary to the Minister for the Environment and Heritage  The Hon. Gregory Andrew Hunt MP
Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry  The Hon. Sussan Penelope Ley MP
Parliamentary Secretary to the Minister for Education, Science and Training  The Hon. Patrick Francis Farmer MP
Parliamentary Secretary (Foreign Affairs)  The Hon. Teresa Gambaro MP
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<td>Senator Christopher Vaughan Evans</td>
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<td>Senator Stephen Michael Conroy</td>
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<td>Julia Eileen Gillard MP</td>
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<td>Wayne Maxwell Swan MP</td>
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<td>The Hon. Simon Findlay Crean MP</td>
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<td>Martin John Ferguson MP</td>
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<td>Anthony Norman Albanese MP</td>
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<td>Water and Deputy Manager of Opposition Business in the House</td>
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<td>Shadow Minister for Housing, Shadow Minister for Urban Development</td>
<td>Senator Kim John Carr</td>
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<td>Gavan Michael O’Connor MP</td>
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<td>Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow</td>
<td>Joel Andrew Fitzgibbon MP</td>
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<td>Minister for Small Business and Competition</td>
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<td>Shadow Minister for Transport</td>
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<td>Shadow Minister for Sport and Recreation</td>
<td>Senator Kate Alexandra Lundy</td>
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<td>Shadow Minister for Homeland Security and</td>
<td>The Hon. Archibald Ronald Bevis MP</td>
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<td>Alan Peter Griffin MP</td>
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<td>Shadow Minister for Defence Industry, Procurement and Personnel</td>
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<td>Senator Joseph William Ludwig</td>
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<td>Shadow Minister for Overseas Aid and Pacific Island Affairs</td>
<td>Robert Charles Grant Sercombe MP</td>
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<td>Peter Robert Garrett MP</td>
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<td>John Paul Murphy MP</td>
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<td>Bernard Fernando Ripoll MP</td>
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<td>Ann Kathleen Corcoran MP</td>
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<td>Catherine Fiona King MP</td>
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The SPEAKER (Hon. David Hawker) took the chair at 9.00 am and read prayers.

TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 2006

Second Reading

Debate resumed from 28 February, on motion by Mr Ruddock:

That this bill be now read a second time.

Mr Garrett (Kingsford Smith) (9.01 am)—The Telecommunications (Interception) Amendment Bill 2006, amongst other things, amends the Telecommunications (Interceptions) Act 1979 and seeks to implement the recommendations of the Report of the review of the regulation of access to communications, which is referred to as the Blunn report. There is a significant history of consideration by this parliament of the extension of powers that are constantly sought by police and relevant authorities to access communications. This complex history, which I have been reading in the past 24 hours, brings us to the consideration of this bill. Significantly, the bill proposes the interception of communications of persons who are not specifically considered to have warranted a communication—in other words, what is known as B-party, or third-party, interceptions. I will return to consideration of that later in this speech.

This bill, by implementing the Blunn recommendations, provides a legislative framework for limits on law enforcement access to two sets of communications: real-time communications—conversations on the telephone, for example—and stored communications, such as emails. The House welcomes the opportunity to see the Bl unn recommendations reflected in proposed legislation. We cautiously support and welcome the bill, but we believe that further consideration by the Senate committee will be necessary, when the bill travels to the Senate, of some of the specific issues in relation to the granting of powers that is considered under this legislation.

ASIO and the law enforcement agencies are granted new powers, and it is the extension of those new powers that the parliament needs to acknowledge and scrutinise very closely. There have been profound improvements in communications technology since the legislation of 1979. Persons use a variety of means of communication now, but most particularly mobile phones, with SMS messaging and texting. Additionally, emails, as we are all aware, have become a constant feature of the communications that take place in everyday life. At the same time, the mobility of the mobile phone and the capacity to substitute SIM cards and to have two, three, four or five handsets means that authorities—I think reasonably—are seeking ways to access relevant communications where they have a legitimate need to do so.

By extending the TI warrant regime to stored communications like emails, the bill purports to limit the so-called common-law access to interceptions by law enforcement agencies. The previous legislation, the telecommunications bills of 2002 and 2004, had confronted this matter and essentially had come to grief because the Attorneys-General and the Australian Federal Police, it seemed, had different views on whether interceptions of stored communications would be considered appropriate under the existing legal framework. When the Senate Legal and Constitutional Legislation Committee heard evidence in 2004 that the Australian Federal Police were using section 3L of the Crimes Act to access stored communications—communications that were stored by the internet service provider without a warrant—and that the Attorney-General’s Department...
and the AFP had different views about that matter, it was clear that we needed further consideration of the legal issues and also the most appropriate legal framework for access, if there were to be access, and under what conditions. As a consequence, those bills—or at least the provisions of those bills—did not proceed. The subsequent bills did allow for stored communication to be accessed but a sunset clause applied. We are now looking at the review and the recommendations as they are embodied in this legislation.

When the second reading speech was given on 16 February, paragraph 10 of the speech referred to the bill containing ‘amendments to enable interception agencies to obtain an interception warrant in respect of the communications of an associate of a person of interest’. It is on that very matter that the discussion—and, I think, the Senate committee’s consideration—will essentially rest, because, for the first time, we will have the covert capacity granted to intercept the communications of somebody who is in no way suspected of any offence. That represents a considerable extension of the original law as it was embodied in the 1979 legislation.

I need to refer to two aspects of the bill. The first relates to the question of stored communications. Schedule 1 of the bill refers to stored communications. I note the comment by my colleague the member for Denison on this matter. He makes a very good point that, where the legislation applies and allows for an extension of access to stored communications, it is in the manner of a warrant but there is no notice, and no legal rights apply, which would normally be the case with a warrant. In other words, it is not considered that we are putting in place under this legislation the same sort of strict regime that exists for voice transmissions. The voice transmission regime has a higher test; the stored communications proposed test is lower.

There is an argument, which I think was well put by the member for Denison, that if in fact access to stored communications has the effect of a warrant then the conditions that apply to that access should contain the same characteristics that have traditionally applied in the common law when an application for a search warrant is made, specifically in relation to the person for whom the warrant is being sought. In this case, if you are simply looking for evidence, you need to have some notice of the evidence. But, under the proposed legislation as it exists, the capacity for you as a third party to insist on knowing what the nature of that ‘warrant’ may be is clearly less.

Schedule 2 of the bill, which refers to B-party communications, is of particular significance. It probably ought to be properly titled ‘third-party communications’. As proposed under this bill, we will have what is known as ‘B-party interception’. The law will now permit an issuing authority to exercise an intercept against a third-party communication, and the third party will have no knowledge of that interception. It is true that target parties are better able to get around the capacity of interceptions by switching phones, SIM cards and so on and that parliament must be able to permit agencies to intercept those communications, but to what extent the target intended and the interception intended then essentially bleed out to any other communications that are taking place between the target and other parties really goes to the crux of the criticality of this proposed legislation. That is something that I urge the Senate Legal and Constitutional Legislation Committee to examine very closely. The fact is that the proposal as it now stands allows for the additional capture of incidental or collateral communications with others.
In the light of the proposals that the Attorney-General has coming into this parliament later in the year—particularly the proposal, yet to be seen by us in the House, of a national identity card—I think this raises the very profound challenges that the new digital and communications technologies present to us as law-makers, as well as the challenges that they present to the law enforcement agencies. That balance, which Mr Blunn referred to in his report—the balance between the need to ensure the privacy of citizens of the Commonwealth, as against providing the opportunity for law enforcement agencies to do their jobs effectively—is becoming a more highly calibrated and difficult area of consideration. You can very quickly imagine the prospect for communications of this kind, particularly in the way they are transmitted at this point in time, to become part of a larger body of information and material which is capable of being stored—and it is information about all of us. So, when we talk about safeguards in this place, I think we very necessarily reflect on the role that law-makers have to literally ensure that the safeguards are in place and will be capable of being administered over time.

Labor feel very strongly that issues of unintended consequences of legislation of this kind need to be considered by the Senate committee. Certainly the history of the expansion of powers that have been sought by agencies and of proposals that have been brought through and subsequently amended over time indicates that the amount of caution and the necessity to look at safeguards that we have brought to this debate have been generally of benefit, not only to the community but to the consistency of laws as they exist now.

To the extent that this bill provides greater clarification and seeks to implement the Blunn recommendations, or at least some of them, it is welcome. It is clear that the present situation is unsatisfactory and that we do need tougher safeguards than currently exist. It is also clear that the protection of privacy is one of the fundamental considerations that the parliament and also the Senate Legal and Constitutional Legislation Committee need to consider. Mr Blunn referred to B-party intercepts being acceptable in limited and controlled circumstances and to their existing as a last resort. The question of whether or not the rights for these intercepts exist has been debated somewhat in the House, but I think the point needs to be made very strongly that there is a need to limit and carefully control any B-party or third-party intercepts that are contemplated by authorities. Certainly, as indicated by the member for Gellibrand, Labor will look closely at the debate and the consideration by the Senate committee and, following that consideration, will move additional amendments if necessary.

I want to refer briefly to the assurances that have been given by the Attorney-General on this matter and make the point, as I have in the House before, that I have some concern—some anxiety, in fact—about the Attorney-General’s exercising of his responsibilities as the first law officer of the Crown. In the past, the Attorney-General has attacked members of the judiciary, and he has been clear in his comments on that basis. He has chosen not to argue strongly for an Australian citizen detained overseas, David Hicks, to have the most adequate and comprehensive legal protection that ought to be available to him in the circumstances, but rather has relied on the provisions of a military commission. There is substantial legal opinion, not only in this country but in other places, to say that that is not sufficient for the protection of the rights of a citizen.

The Attorney-General is sometimes a little mischievous when he talks about supporting legislation of this kind and, for example,
quotes things like article 3 of the Universal Declaration of Human Rights. The Attorney-General says that governments have a responsibility to protect people's rights to life, safety and security. But article 3 does not say that; it says:

Everyone has the right to life, liberty and security of person.

Sometimes the Attorney-General leaves out 'liberty' when it does not suit his purposes. The question of liberty is still essentially important in consideration of this legislation, in particular where we are providing, for the first time, the opportunity for law enforcement agencies to be able to intercept, in a covert manner, communications with third parties or associates of someone in whom the law enforcement agencies have an interest but who have committed no crime. That is an extremely large threshold over which this parliament may now seek to travel. It would need to do it with the utmost caution and take into account, I hope, the deliberations of the Senate Legal and Constitutional Legislation Committee and any amendments to this legislation that Labor seeks to bring back.

Ms GRIERSON (Newcastle) (9.17 am)—I rise today to speak on the Telecommunications (Interception) Amendment Bill 2006. The intent of this legislation is to amend the Telecommunications (Interception) Act 1979 to implement certain recommendations of the Blunn report on the regulation of access to communications under the act.

Clearly, the world is changing rapidly, and the way we communicate with each other has evolved from telegraph, fixed telephone and postal delivery to mobile phone, text messages, emails and digital communications in a very short space of time. These changes have brought with them huge benefits to individuals and to our community in efficiency, convenience and productivity. But they also bring new opportunities for those who seek to plan and carry out crime. People who would commit crime can use this new technology to improve their own efficiency, convenience and illicit productivity. The changes in communications technology have clearly brought with them changes in the ways in which people use those technologies for criminal purposes. It stands to reason, then, that the way in which our law enforcement agencies approach the prevention and investigation of crime must also change.

I am pleased to see that the government has responded to the recommendations of the Report of the review of the regulation of access to communications—known as the Blunn report. Labor pushed strongly for an independent review of access to communications by enforcement agencies. I am particularly pleased to note Mr Blunn's first finding:

... 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 ...

I firmly believe that all of us, as legislators, should bear those words in mind as we consider this legislation. No matter how quickly telecommunications and technologies change, and how quickly criminals change their behaviour to take advantage of this, there is one thing that never changes—the right of every Australian citizen to have their privacy and civil liberties protected.

The right to privacy is fundamental, and we must not let our quest to prevent crime impinge upon this right. No matter how quickly the world changes, there are some fundamental rights which must always be defended. That is why I have to say that I have mixed feelings on this legislation. The legislation is an attempt to clarify the powers of law enforcement and security agencies to access both real-time communications and stored communications—and, of course,
stored communications now are very extensive. It is only sensible to do this. But I do have concerns about the implications of this legislation. I am glad to see that it has been referred to a Senate committee for closer scrutiny, and I hope that any unintended consequences are revealed and removed from the legislation in that process.

It is vitally important that we get legislation such as this right. We have seen this government rush many pieces of controversial legislation through this place and through the Senate without proper scrutiny or investigation. I fear that legislation such as the Work Choices bill, the Welfare to Work bill and the sedition provisions of the antiterrorist legislation will have implications as they progress and are implemented. Those implications will be felt by our communities. It is, then, important that this legislation is scrutinised fully in the Senate committee process. The key, as we have so often seen in our post September 11 world, is to strike a balance—a balance between our desire to protect the civil liberties of our people and our desire to keep our people safe.

There are several key provisions in this legislation to enact certain recommendations of the Blunn review. They deserve examination. Firstly, the legislation inserts a warrant regime for access to stored communications held by a telecommunications carrier. These stored communications are broadly defined to include electronic messages located on a computer, internet server or other equipment, whether read or unread, opened or unopened—messages such as emails, text messages, voice mail and all the attachments. Such stored communications are presently not covered by the Telecommunications Act, so they could be intercepted within the existing warrant regime without the need for a telecommunications interception warrant. However, this existing warrant regime has limitations and offers fewer protections than a telecommunications interception warrant should.

The legislation before us does propose a new warrants regime that will move stored communications from a general search warrant to tougher provisions similar to those already in the Telecommunications (Interception) Act for real-time communications. On balance, this appears to be a sensible amendment which recognises the change in telecommunications methods since the original interception act was drafted.

Schedule 3 of this legislation sets out to amend the named telecommunications interception warrant provisions to enable agencies to intercept communications to and from identified devices such as mobile phone handsets, personal and laptop computers, personal digital assistants and pagers. I note that interception on the basis of the device must only be authorised where the applicant agency has no practical method of identifying the telecommunications service used or likely to be used by the person of interest and that the interception of those services would not be possible.

Again, this provision appears to be necessary to keep up with the changing nature of communications and the way in which suspected criminals can use a large number of devices and services to disguise their activities. That can involve changing email services or mobile phone SIM cards to make it very difficult to track and link communications to the person of interest. As such, the provisions to allow for interception warrants to be issued in relation to specific telecommunications equipment appear to be useful ones.

The other major schedule in this legislation that I wish to discuss today is the schedule dealing with so-called B-party intercepts or third-party intercepts. Like the equipment based interception provisions that I referred
to, this schedule has been introduced in an attempt to allow another way for enforcement agencies to intercept the communications of people of interest when they are having difficulty doing so through the usual channels of an interception warrant.

However, the problem many Australians would have with this schedule is that it does not only target people who are suspected of a crime or the equipment and services they use. B-party intercepts allow persons other than the person suspected of involvement in the crime to have their communications intercepted. These persons are referred to as the B-party. As long as this B-party is in contact with a suspected person, no matter what they are talking about or what information they are exchanging, that B-party person can then have their communications intercepted. Let us be clear what this means: a warrant can be obtained to bug the phone of a person who is not suspected of a crime. We should think very hard about the implications of this and the safeguards that are required before proceeding.

If party A, the person under investigation, is having their communications intercepted and they are discussing proposed crime with party B, then I have no problem with party B being brought into the scope of that investigation. What I do have a problem with is what the implications are of a B-party interception warrant then being issued for the second party. And, of course, that is the sort of safeguard that I would like to see.

The problem is that moving on to intercept the communications of party B then picks up a whole range of other communications with parties C, D, E and so on. These people may be relatives, friends, business associates or even lawyers or members of parliament—and, of course, we are used to a privilege situation with lawyers and clients and members of parliament and we are concerned that that should always continue. They may be completely innocent parties and perhaps would not even know of the existence of party A, the person under investigation for whom the original warrant would have been issued, yet they are having their personal conversations intercepted.

What if these people, parties C, D, E and so on, are not so innocent? If they are involved in the same crime, the crime for which the original warrant was sought for party A, then that is fine; it seems a fair cop. They can be investigated as part of that. However, if the agencies suspect that these people are involved in some different crime, those agencies should not be allowed to use that sort of intercepted information to pursue those people. They should indeed be required to make new investigations into that new alleged crime and seek appropriate warrants based on evidence coming out of those investigations but certainly not based on their interception information relating to the party-A warrant. If we do not protect against this sort of indirect collection of interceptions from people for whom we have no warrant, then the infringement of individual rights and liberties would become untenable.

My concern then is that appropriate silos or firewalls are maintained between the person for whom this B-party warrant has been issued and any other person with whom they communicate. While B-party interceptions are currently provided for under the existing act, the Blunn report notes that it has not been utilised by enforcement agencies because the provisions on this matter were seen as being open to several interpretations.

What this legislation does is make it explicit that B-party services may be intercepted. It also gives certain protections, such as stating that B-party interceptions must be a ‘last resort’ and must be a last-resort recourse for law enforcement agencies—
though it is always that last resort and the person who has the power to issue that last resort facility that is concerning. Nonetheless, many in our community have been alarmed by this proposal. Civil liberties groups have warned that B-party interception powers tip the balance too far away from our citizens’ right to privacy and too far in favour of the ease and convenience of enforcement agencies in accessing their communications. This is a serious concern and one which the Blunn report noted. The report recommended that it be made ‘clear that B-party services may be intercepted in limited and controlled circumstances’. It is not clear from my reading of this legislation that the circumstances will be limited and controlled enough to warrant spying on innocent Australians.

I certainly hope that the Senate Legal and Constitutional Legislation Committee will have a very close look at this provision, because this is an area where we must get the balance just right. We must not allow ourselves to become a people ever afraid. We should not be afraid of picking up the telephone or sending someone a text message or an email for fear that communication will be traced or listened to. We should not have to check what we say and censor ourselves because we do not know who may be listening.

The fact that we are considering the matter of B-party interceptions raises some broader issues that I would like to touch on. Before I do, I would say that many of these legislative changes have been made with an antiterrorist intention and in an atmosphere and climate of new fears that pervade the world, including our country. It is important that people understand that the antiterrorist legislation itself widened powers so that there are already powers in our laws to deal with any interceptions if they are to do with a terrorist act or an imminent threat. The broader issues that I would like to touch on are important. The right to privacy is a right which is explicitly provided for under the International Covenant on Civil and Political Rights. The CCPR states:

No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

It also says:

Everyone has the right to the protection of the law against such interference or attacks.

Australia is a signatory to the CCPR and thus there is an obligation upon us to uphold the principles enshrined in it. However, the Howard government has repeatedly shown its disinterest in its international obligations. We have seen this in its treatment of asylum seekers—I note it is a year since Cornelia Rau was given her liberty and there has certainly been no payment of compensation at this stage; its treatment of working people, through its Work Choices legislation that has a new competitive edge which is about lowering people’s wages and conditions; and its keenness to go to war in Iraq, where we have been for three years, no matter what the United Nations thought at the time.

International treaties and institutions do not mean too much to this government. I cite the daily revelations regarding the Australian Wheat Board scandal that links the Howard government closer and closer to the deception and cheating. To this government such international obligations can be treated as irrelevant to Australia with the claim that they impinge on our sovereignty or independence. Perhaps it is time that we took a cue from every other Western nation and actually enshrined some of the rights embodied in such international treaties as the CCPR in our own nation’s law.

In this respect, I would like to draw the House’s attention to the good work being done by New Matilda, who have proposed a human rights act to do just that. New Matilda
should be congratulated for raising public debate about how such an act would help to ensure that all of the legislation proposed by this parliament meets the basic principles of human rights. It would be interesting to see how the B-party provisions of this legislation would stand up when measured against such a human rights act. I believe that some of this government’s other legislation, such as that covering sedition and mandatory detention, would not pass muster under a basic human rights act.

I also believe that some of the statements made by the Prime Minister and others recently on Australian values would be more credible if they were backed by a concrete description of what our values are. In fact, there seems to be quite a deal of confusion between the Minister for Health and Ageing, Tony Abbott, the Treasurer, Mr Costello, and the Prime Minister himself on just what our values are. Apparently, it is a moveable feast. They are definitely ill defined by this government and are certainly subjective. A human rights act may be a way in which we can come to some kind of shared view on what our values actually are. It would spell them out in black and white, so that all Australians would have a clear indication of their rights and responsibilities. This is just a suggestion, which I believe is a good one, for ways in which we can use a human rights framework to help inform the community on these important matters. It would also help to inform us, as elected representatives, as we look at contentious legislation such as this which has the potential to infringe upon our human rights.

As I said earlier, there is a clear need to update the Telecommunications (Interception) Act to give our law enforcement agencies the powers they need to fight crime in this era of new and changing technology. I give full praise and commendation to the opposition for their efforts to bring better legislation into effect. However, any increase in these powers must be measured against the cost to the rights and civil liberties of our people, and we must be careful to get this balance right. There is no doubt that there are serious concerns about this legislation, and I look forward to a fuller examination of these concerns in the Senate committee process.

Mr Melham (Banks) (9.34 am)—I rise to speak to the Telecommunications (Interception) Amendment Bill 2006. I note that this bill will be referred to the Senate Legal and Constitutional Affairs Committee for examination and report. I for one hope that the committee, in its report and examination, will look at a couple of aspects of this bill that cause me real concern. The bill has two main features. Firstly, it establishes a regime under the Telecommunications (Interception) Act to enable the interception of stored communications such as emails in transit on a web server’s computer. Secondly, it enables the interception of what are called B-party telephones.

Whilst the stored communications provisions are generally fine because they make it clear that the communications can only be intercepted with a TI warrant and not merely a search warrant, which is theoretically easier to obtain, the issue that needs rethinking is the proposal that stored communication warrants could be obtained for a very wide range of investigations that would not be able to utilise TI warrants. The agencies able to use these stored communication warrants would include ASIC, Customs and the Australian Taxation Office, none of which can use TI warrants now. Currently, TI warrants can only be obtained to investigate offences carrying a maximum penalty of seven years or more. However, stored communication warrants could be used to investigate offences including non-criminal civil penalty cases carrying maximum penalties as low as three years and, once accessible by an
agency, stored communications could be used in the investigation of offences where the maximum penalty is as low as a fine of 60 penalty units, which is $6,600.

This aspect of the bill is set out on page 12 of the explanatory memorandum, which is a frank assessment of the bill. It is worth reading again some parts of that explanatory memorandum. There is a concession, which says:

- There is a wider range of issuing authority. Whereas interception warrants may only be issued by eligible judges or nominated AAT members, stored communications warrants may be also be issued by these authorities as well as any other Commonwealth, State or Territory judge or magistrate.
- There is a lower threshold to be met. Interception warrants are only available in relation to specified serious offences, as defined in subsection 5(1). While these are varied in terms of their penalties, the general rule is that they relate to offences with a maximum term of imprisonment of at least seven years. In contrast, stored communications warrants are available for the investigation of these serious offences as well as offences with a penalty of imprisonment for a maximum period of at least three years or a pecuniary penalty of at least 180 penalty units for individuals and at least 900 penalty units for corporations. In addition, stored communications warrants can be obtained as part of statutory civil proceedings which would render the person of interest to a pecuniary penalty of at least 180 penalty units for individuals and at least 900 penalty units for corporations. Consistent with the lower threshold, stored communications that have been lawfully accessed can be used as part of the investigation of matters with a lower threshold (at least one year imprisonment or at least 60 penalty units for individuals (300 penalty units for corporations).
- Reflecting the wider agency access and the lower threshold to be met, the reporting requirements for stored communications warrant are not as burdensome on the agencies as the requirements for interception. Reduced reporting requirements are also consistent with general search warrants provisions.

So there is an admission of an expansion of access and a lower threshold test. Historically, TI warrants have applied to more serious penalties with a maximum of seven years or more. I think the Senate committee should look at whether that is necessary or whether it needs to be limited.

I come to what I consider to be the next gross invasion of interception on individuals. In the current climate the Attorney-General, on behalf of the Commonwealth, and the agencies are further and further seeking more powers. Frankly, they are not making their case. Theoretical situations and wish lists are being put to us. We are getting into a situation whereby the underpinning of this legislation when it was first put in place and the protection mechanisms and the assurances that were given about there not being future expansions are all being swept under the carpet. I know we are living in a new environment, and I know that interception is an important tool in authorities’ pursuit of criminals and criminal conduct, but we are getting to the stage where the broader use of these tools is in my opinion—I am not saying it is my party’s opinion—going too far.

I have been advised that, in respect of B-party intercepts, the bill dramatically widens TI powers and will lead to the greatest incursion upon privacy ever endorsed by the federal parliament. If the police establish that all other methods of identifying the phone service used by the target have failed or that it is not possible to intercept the target’s phone, they will be able to tap the phones belonging to the target’s family, friends, associates and lawyers so long as the police can demonstrate that it is likely that the target will contact the B-party on that phone. There is no need to show that the B-party is suspected of any criminal complicity. There is no need to
show that the target will make calls from the B-party’s phone. There is no need to show that the target will talk to the B-party about any relevant criminal activity. Those limitations have not been imposed by this legislation.

The B-party warrant can run for 45 days for police warrants and for three months for ASIO warrants. It is often difficult to determine exactly which phone a target is using, so B-party warrants will be common. Once a target’s phone has been identified, I am advised that there is no requirement that the B-party intercept cease—the police can and will continue to tap the B-party phone until the warrant expires. So innocent people, with no involvement in a crime, will have their phones tapped, possibly for months at a time, simply because they might receive a call from a suspect. That is a matter that the committee needs to look at. On my reading, and from what I have been advised, this is a massive expansion of powers and I do not believe there are sufficient safeguards or protections. I believe the threshold is too low in relation to that activity.

On my reading of the bill and from what I have been advised, the legislation will allow a breach of legal professional privilege. If there is contact between solicitor and client or barrister and client we all know that legal professional privilege applies. This legislation will allow a breach of that legal professional privilege. It will also mean that, inevitably, some members of parliament could have their phones intercepted. We are no special category per se, but if we have constituents of a suspect nature who make contact with us, on my reading of this bill, our phones can be tapped. The explanatory memorandum, on page 32, says:

The amendments provide that where an interception agency satisfies an issuing authority that all other practicable methods of identifying the telecommunications service used by the person of interest have been exhausted, or that it is not possible to intercept the telecommunications used by the person of interest, then the interception agency may intercept the telecommunications service used by another person. Interception of the so-called B-Party service will only be available where the interception agency can satisfy the issuing authority that the person being intercepted will likely be contacted on that telecommunications service by the person of interest.

That is the threshold for B-party interception. So what we are doing in effect is as I said earlier: there is no need to show that the B-party is suspected of any criminal activity, there is no need to show that the target will be making calls from the B-party’s phone and there is no need to show that the target will talk to the B-party about any relevant criminal activity. I say that is a huge expansion and something the Senate committee should have a look at to see whether the case has really be made out for that.

It seems to me that what we are getting is telecommunications interception now being used in a lot of respects to overcome a lot of lazy investigation, and so this is the preferred method of investigation. There is no doubt in my mind, and I do not argue against it, that this is a useful concept and an important tool for investigators and prosecuting authorities. But I argue that there must come a time when you draw the boundaries. There is a point that you do not go beyond and where I think your citizens are entitled to say that privacy considerations prevail in this instance. I am not one of those who believe that at times, in certain situations, privacy should not be wound back, but you have got to get the balance right. It is an argument about the balance. But it seems to me that, before you go into the third-party telephone conversations of other people, you have to have a level of suspicion of their involvement in this sort of activity, not necessarily just innocent parties.
This legislation will also mean that there is basically carte blanche to listen not just to a suspect but in many respects to the suspect’s family—the wife, the girlfriend, the son or the daughter. This will mean they can listen in to their phones for lengthy periods of time. There is no suggestion that, once you establish the phone that the other person has got, you drop off the intercept. There is a time limit on the B-party intercept, but the 45 days and the three months can still be fully exhausted.

There is one matter I want to raise, and it is where the Attorney had a bit of a crack in his second reading speech at critics of Australia’s interception regime. He said the critics:

... have again advanced old arguments that Australian agencies intercept communications at many times the rate of United States agencies and others.

Statistics published in the United States do not include interceptions considered by the investigators to be too sensitive to report. Investigators in Australian law enforcement agencies do not have this discretion and therefore all interceptions must be reported.

He goes on to say that, in America:

This results in fewer statistical returns than under Australian law, which allows a warrant to authorise the interception of a single telecommunications service or the services of one named person only.

In his second reading speech nowhere does the Attorney-General argue that the statistics put forward in relation to Australia were overstated. He argues the comparison; he argues that obviously there is underreporting in America. But he was unable and did not mount an argument against the statistics. The statistics that I produced in a press release dated 15 September 2002, with figures for the periods ranging from 1988-89 to 2000-01, show that there has been a dramatic increase in the number of telephone interception warrants for law enforcement purposes. In 1988-89, there were 246. In 1998-99, there were 1,284. There were 1,689 the next year, and 2,157 the year after. I anticipate that I will be updating this table and issuing an updated release, because it is important that those figures go out into the public domain.

The other interesting thing is that in his second reading speech the Attorney did not say that the publicly available figures from the US were inaccurate, either. A lot of effort was made at the time to produce those statistics. The underlying thing that the statistics show is that there is going to be an increasing use of this technology, because there is no doubt that it is an efficient way for enforcement agencies to operate. That is why we need to be cautious in terms of our safeguards and the privacy protections.

We need to be cautious in how far we expand the use and availability of these sorts of services. I do not think it is sufficient to say, ‘This will help solve crime, so let’s throw down the privacy protections.’ In the pursuit of criminals, we have to have a standard of proof, and that standard is ‘beyond reasonable doubt’. That means that in some instances people who may well have committed crimes are released by judges and juries because of insufficient evidence. If you lower your standards too far, you will end up picking up innocent people. They will get swept up, and that should not happen.

Mr RUDDOCK (Berowra—Attorney-General) (9.54 am)—in reply—I thank the members who have contributed to the debate: the members for Gellibrand, Moncrieff, Denison, La Trobe, Newcastle, Kingsford Smith and Banks. I will deal with the individual comments as I deal with particular issues in this summing up. The Telecommunications (Interception) Amendment Bill
2006 illustrates the government’s commitment to ensuring that security and law enforcement agencies are equipped with appropriate powers to combat and prevent serious crime, including terrorism.

At the same time, the bill reflects the government’s consistent adherence to ensuring that there are appropriate privacy protections for users of the Australian telecommunications network. We believe that the measures that we are proposing are balanced and appropriate to the threats that we face and will enable important investigations to be adequately undertaken.

The new stored communications warrant regime implements the recommendations of Tony Blunn for an overarching regulatory framework to access communications such as emails, voice mail and SMS messages. Members have known for some time that this is a very important area for the law to move on, and this was the subject of consideration in the Senate on a number of occasions. Legislation to deal with the matter temporarily has been the subject of a sunset clause, which will run out in June this year.

This legislation is the considered response to those issues and will deal with those matters in a balanced way. Tony Blunn undertook the work to develop the proposal. The new regime strikes a careful balance, on the one hand creating a new prima facie protection for stored communications while on the other creating a defined regime to provide law enforcement agencies with appropriate access.

I note, for instance, the member for Denison’s concern that the proposed stored communications regime is not subject to the same restrictions as interception. There is a reason for this. It is because of the way in which these matters are accessed. You access them, essentially, at one single point in time, whereas the interception regime is a continuing monitoring over a longer period of time. The concerns, in our view, are misplaced.

Under the current laws, only those communications in their passage over the telecommunications systems are subject to the restrictions imposed by the interceptions regime. This bill has the effect of creating a new protection for those communications that are stored by a carrier which would otherwise be susceptible to access under the lower threshold applicable to search warrants.

This is an intermediate regime. Search warrants have a far lesser threshold to be satisfied. This is not going to the level that would apply in relation to a continuous monitoring, but to a higher threshold than that which applies for search warrants. That is the important point that needs to be understood. Given the differences, we think that the additional arrangements over and above those applicable to search warrants are the appropriate and balanced approach to dealing with these stored communications such as email and SMS messages.

For completeness, I note that the measures will not affect the existing arrangements in relation to the execution of search warrants on members and senators, as suggested by the member for Denison. I should also note that that was a matter that was the subject of comment by the member for Banks and the member for Kingsford Smith.

The bill will also make important amendments to the interception regime to assist agencies to counter measures adopted by persons suspected of serious criminal activity to evade telecommunications interception. People are very conscious today of interception—and I see this all the time in relation to the particular form of warrants that I supervise. There is a high level of awareness among people who may be targeted for investigations about the potential for scrutiny,
and they take that into account. It is a situation in which the goalposts are moving.

I would like to think that telecommunications interception could be as effective as it has been in the past, but the concern we have is that, as a useful tool, it is being significantly degraded. These amendments are to allow agencies to respond in part to those changes: to allow them to intercept communications of an associate of a suspect or to intercept communications through a particular piece of equipment. These are designed to give further effect to the recommendations from Mr Blunn and his independent report. They respond to the ever-increasing sophistication in the use of communications technology by people engaged in serious criminal activity.

Interception under these new amendments will only be used as an investigative tool of last resort. I think that is the point that needs to be understood. These are additional controls. They are strict controls. These are only to be available for the investigation of the most serious offences; they are not tools that will be made available for the investigation of minor offences. I note the member for Denison’s comment that the use of B-party interception should be carefully limited. As I have said previously, this bill ensures that, where an agency believes it is necessary to intercept the communications of an associate of a suspect, the agency must demonstrate to a judge or an AAT member that the agency has exhausted all other practical methods of identifying communication services used by the suspect. That point is one I would make to the member for Banks. This is not a situation in which a warrant will be easily obtained; it will be a situation in which there is a very high threshold which has to be satisfied.

The idea that third parties’ conversations should not be intercepted fails to recognise that that happens now. If you, as a member of parliament, happen to ring a person who is a target of an investigation under the existing regime where a warrant has been issued, your conversation—which might be totally about matters relating to your parliamentary duties—could be the subject of interception. The point is that there is a requirement for those forms of conversations to be deleted and for the information not to be readily available for further investigations unrelated to the matters that are the subject of the investigation, unless they disclose an offence which itself carries a significant penalty. B-party interception is to be a tool of last resort, as the member for Newcastle said it should be.

The existing strong safeguards embedded in the interception regime will continue to apply. An interception warrant can only be granted to an agency where the judge or AAT member is satisfied that there are reasonable grounds for suspecting that a particular person is using or likely to use the telecommunications service and—I emphasise this—that information that would be obtained by the interception would be likely to assist in connection with the investigation by the agency of an offence which carries a penalty of seven years of penal servitude. The judge and the AAT member must have regard to the following additional factors: how much the privacy of any person would be likely to be interfered with by the interception; the gravity and the seriousness of the offences being investigated; how much the intercepted information would be likely to assist with the investigation by the agency of the offence and to what extent alternative methods of investigating the offence have been used or are available to the agency; how much the use of such methods would be likely to assist in the investigation by the agency of the offence; and how much the use of such methods would be likely to prejudice the investi-
igation by the agency of the offence. All of these are requirements that have to be met. That is a very important aspect of these matters.

I was surprised at the suggestion from the honourable member for Kingsford Smith that a party that is the subject of a B-party warrant should receive a notice from the authorities of the intention to conduct the interception. I think that is an extraordinary suggestion, because the nature of telecommunications interception, which has long been part of our method of investigating serious criminal offences, is that inherently it is and always has been a covert investigatory tool. Consistent with its covert nature, the use of the interception is tightly regulated in the way that I have mentioned. But the idea that you go out and say to somebody, ‘Don’t use your phone when you’re talking to party-X because it’s the subject of a covert interception’ would totally destroy its efficacy as a tool, I suspect.

The measures in this bill will not only maintain but further strengthen the stringent restrictions on when an interception warrant can be issued to ensure that it only happens in connection with the investigation of very serious offences. The existing restrictions on the use of any intercepted material continue to apply and will, as currently required, have independent oversight and annual reporting to parliament.

I also note the reluctant concession of the member for Denison that B-party interception provisions are necessary, but the member is concerned with the use of intercepted material which will be obtained by intercepting the B-party. If intercepted material reveals information regarding the commission of an offence that was not initially under investigation, that information may be used by the interception agency, providing it meets a three-year penal servitude threshold. This is entirely consistent with the existing arrangements within the interception regime, which enable the use of intercepted material in relation to any criminal offence which meets that three-year threshold. These arrangements ensure that law enforcement agencies and security agencies are not required to turn a blind eye to criminality where the interception warrant initially relates to a different offence. To suggest otherwise would seriously impede the ability of the agencies to utilise this important investigatory tool appropriately and effectively.

In relation to the final comments made by the member for Banks, he did not quote me inappropriately from my second reading speech. But I would say that, in Australia, we have an effective system of monitoring, which includes a robust system of keeping statistics. That there are statistics from which you are able to undertake your evaluation as to the movements that may or may not be occurring is because we do just that. I think the gentleman concerned, Mr O’Gorman in Queensland, argues that your phone is more likely to be tapped in Australia than it is in the United States, and therefore we are doing something inherently wrong.

The point I make is that our statistics are robust; their statistics are not. The argument on the basis of comparing statistics is a flawed argument. If you were to take his formula and use the German classifications, for instance—I have the figures here: the population of Germany is 82 million—you would find that in terms of intercepts one in every 2,841 persons or phones is tapped in Germany. The population in Australia is 20 million. The figure is one in 6,634 phones or persons are tapped. You could argue that somebody is 42 per cent more likely to have their phone tapped in Germany than in Australia, and therefore our figures are comparatively low. That is the nature of the argument. I do not know about the nature of their
statistics and what they recall. I do not know whether it is a totally valid comparison, but I would certainly argue that we keep very robust statistics. I do not think we are particularly out of the ordinary in terms of investigating terrorism offences, serious criminal offences and using the appropriate tools to do just that.

The bill reflects a very considered effort by the government to strike an appropriate balance in dealing with the very significant efforts that are undertaken to avoid what are known to be investigatory methods, which include telephone interceptions. With the change in technology that has occurred—particularly in relation to email, SMS, stored communications and the like—they are matters that we have to effectively address, and this legislation provides that mechanism. On that basis, I commend the bill to the House and look forward to the Senate dealing with the matter, before the sunset clause expires.

Question agreed to.

Bill read a second time.

Third Reading

Mr Ruddock (Berowra—Attorney-General) (10.10 am)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006 being considered by the House today proposes to amend the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act 2004, which provides the bulk of Commonwealth funding to schools. The Commonwealth currently provides funding, including capital funding, for government and non-government schools for the 2005-08 quadrennium through this act.

You would have to say that the glib and overtly political title of the principal act glosses over the extraordinary inequities that this act perpetuates and the policy failures that this amendment bill attempts to correct. There was no mention in the second reading speech by the Minister for Education, Science and Training of the unfairness of the funding increases that the act enshrines for at least another four years, from 2005. There was nothing about the unfair distribution of funding within the non-government school sector itself.

According to the explanatory memorandum, the specific provisions in this amendment bill have the following objectives: to move uncommitted capital infrastructure funding for government schools from 2005 to 2006 and to bring forward 2008 funding to 2006; to move unspent funding under the Tutorial Voucher Initiative from 2004 to 2006; to allow funding to be carried over or brought forward to another year for all ‘non per capita’ programs—that is, capital grants, targeted programs and national projects; to provide maximum general recurrent grants for a small number of non-government schools that cater for students with emotional, social or behavioural difficulties; and to make a minor technical correction to one of the defined terms in the act.

This is the bill that we had to have—a bill that tries to tidy up an extraordinary policy mess left behind by the now departed minis-
The new minister’s second reading speech was her first major statement on schools, and it is telling that this statement is about the effects of political opportunism and administrative incompetence on the part of the previous minister. We are going to have to wait a little bit longer it seems before we hear about the current minister’s educational philosophy and her vision for Australia’s schools. Maybe that will come some day soon.

Labor will support this bill, only because the needs of students and schools cannot continue to be neglected. But we do have to put on record the consequences of this government’s incompetence, and particularly the incompetence of the previous minister. This incompetence is there for all to see, and the potential for bungling was very clear at the time of the announcement of the programs for capital funding and for literacy vouchers. I want to go through both of these programs in detail.

The government’s major 2004 election commitment for schools was its Investing in Our Schools program, where $1 billion over four years was provided for capital projects in schools, with $700 million of that to go to government schools and $300 million to go to non-government schools. This commitment was a very direct and very hurried response to Labor’s election policy for schools. There is no question that the panicked way in which this policy response was developed at the last minute has followed through into what can only be described as slapdash implementation and chronic delays in getting the money to the schools and the students who need it. For government schools, what we had from the previous minister was a decision to bypass state authorities by calling for applications directly from schools and local parents and citizens associations. The previous minister announced that Australia’s 6,900-plus public schools would be eligible for ‘up to’ $150,000 each under this process.

The government has been overwhelmed by its own decision to go down this path and has failed to deliver this money to schools. Most schools are still waiting for the money. I am sure many members in this House are getting representations from their schools, because they are sick and tired of seeing the funding dates for this money getting pushed back further and further. The previous minister for education first of all promised that the grants would be announced in May 2005. That is when the grants were supposed to be announced. It is now March 2006. The new school year started weeks ago. Many schools have promoted their facilities to parents on the basis of projects they expected to have completed in time for this school year. Now many parents are questioning schools about whatever happened to those promised shade-cloths, computers or whatever other initiative it might be.

The government’s incompetence has caused all sorts of other collateral damage. I know of a contractor in Victoria who has almost $10 million out in quotes for school contracts. He provided those quotes more than a year ago, when schools were writing applications. Now he is in a financial dilemma because building costs have gone up in the past year—once again, due to this government’s skills crisis—and he does not know whether he is going to be able to honour the year-old quotes. He knows and the schools and parents know that all of this intolerable situation has been brought about by the bungling of this government. I do not even need to go into the larger round 2 grants process. Schools were first told that round 2 successful grants would be announced last October, then it was pushed to December, then we were told February and now it is supposed to be April. It is extraordinary irresponsible of this government to be con-
continuing to delay the funding of these important projects when we have schools who need the money desperately.

Although the program was clearly targeted in the election to all government schools and all parent associations, what we have had from the minister is the extraordinarily flimsy excuse that the department was surprised at the volume of applications. But it was targeted at all schools! The department, apparently, has been completely unable to administer the program in a timely way despite significant increases in staffing for the program. This bill is the direct and inevitable result of this government’s incompetence. All government schools were promised additional funding for capital projects in the election, so why on earth was it any surprise to the previous minister or the current minister that most schools and most parents and citizens organisations were keen to apply? Of course they were keen to apply. Of course they wanted some of the money for their students and their schools. There cannot be any excuse for not preparing to handle applications from so many of the nation’s schools.

As Minister Nelson sowed, now Minister Bishop reaps. Today she is saddled with the task of trying to clean up the mess left behind by Dr Nelson. The incompetence of the Investing in Our Schools program implementation, unfortunately for the new minister, is only the first example of the landmines that Dr Nelson has left behind for his successor. Someone somewhere has to be responsible for this mess. What is clear is that the Howard government have bungled their management of this program by trying to set themselves up as a small-scale capital developer for Australia’s government schools. They knew how many government schools there were before they made this announcement. They paint themselves as trying to rescue school communities, but what they have had to do is create their own administrative monster and, as a result, even with 50 extra staff, they have been completely incapable of getting this money into schools in a timely fashion. They have set up a complete duplicate administration for getting capital funding for schools, and it has become very clear in the last few days that this has been done for blatantly political reasons.

We now see the inevitable result of this ad hoc administration. It is a salutary lesson for this new minister. If she is to learn anything from the schoolboy mistakes of her predecessor, it is that it is much better to work in cooperation with the states than to try to set up a whole duplicate administration and then bungle it and be incapable of delivering to our schools and to our students. Of course we want to see the involvement of parent organisations in the decisions about the allocation of capital funds. Parents have a very important role to play. But their involvement needs to be done in a strategic way and it certainly should be done in cooperation with the states, not with the Commonwealth setting up its own administration and then being totally incapable of delivering the money.

We have been concerned about this incompetence. We continue to be concerned about it, but we also know that the approvals so far show that political pork-barrelling continues to be the primary motivation in the decisions behind the Investing in Our Schools program. Once again the minister says, ‘Of course coalition seats got more money—we have more seats.’ Minister, let me take you through a few figures that demonstrate that this initiative is all about pork-barrelling. The average funding per Labor electorate is $547,877. The average funding per Liberal electorate is $703,262.

I will go through all the rough numbers to give you an idea. The Liberal electorates get 128 per cent of the funding going to Labor electorates. The Nationals are certainly right
in there. The average funding per The Na-
tionals electorate is 246 per cent of the fund-
ing going to Labor electorates. This shows
that it is all about pork-barrelling. It has cer-
tainly nothing to do with need. In terms of
total funding to an electorate, 19 of the top 20
electorates are coalition held. The first
Labor held electorate appears at No. 20 and
that is Bendigo. In terms of the average grant
given to a school, nine of the top 10 elector-
ates are coalition held. Reid is the only La-
bor-held top 10 seat. How on earth can the
Howard government justify such huge dis-
crepancies? How could a credible, account-
able and transparent assessment process pos-
sibly arrive at such a flawed distribution of
funding? How could it be arrived at? How
could it be fair?

Let me particularly highlight the funding
that has gone to the seat of Dr Nelson, the
former Minister for Education, Science and
Training. Does the former minister, Dr Nel-
son, really expect parents to believe that each
school, in suburbs like St Ives and
Wahroonga, in his North Shore Sydney seat
of Bradfield deserve an average 38 per cent
more funding than schools in the seat of
Fowler, in battling suburbs such as Bon-
nyrigg and Cabramatta? Who would think
that Dr Nelson’s electorate is more needy
than the electorate of Fowler? Nobody would
believe that. It is all about pork-barrelling
and the Liberals and The Nationals looking
after their own electorates. The combined
effects of incompetence and political pork-
barrelling have completely discredited this
program. This should have been about target-
ing the needs of schools and students, with
the involvement of parents, not about politi-
cal pork-barrelling.

In the light of this demonstrated incompe-
tence by the Howard government, and par-
ticularly the previous minister, and the pork-
barrelling of this program, Labor supports
only the increased flexibility in the bill for
the minister to move funds around within the
funding quadrennium so that schools eventu-
ally get the money. It is complete administra-
tive incompetence by the previous minister.
Of course, this program should not be used
for political purposes. We can see the stage-
managed activities that the coalition politi-
cians will use in media releases in the lead-
up to the next election, but of course we will
continue to point out the political misuse of
the program.

The next part of this bill is about the tutor-
ial vouchers program—another extraordi-
nary demonstration of this government’s in-
competence. We have unspent money now
having to be moved from both 2004 and
2005 to the current year because in this pro-
gram, once again, we had from the previous
minister another example of ideology over
good sense. The government insisted on ten-
dering for brokers to provide tutors for chil-
dren who needed literacy support, including
some brokers with doubtful qualifications
and operations. In 2004 the government in-
troduced the payment of tutorial vouchers of
up to $700 to parents of children who had
failed to meet national benchmarks of read-
ning literacy in national testing of year 3 stan-
dards in 2003. These are children who did
not meet the literacy standard in 2003. Of
course, there is no dispute between Labor
and the government about whether young
children who, by year 3, have not reached
minimum standards of reading literacy need
support. Of course they need timely and in-
tensive support. We know that, if these chil-
dren do not receive that support and receive
it quickly, they will most likely continue to
struggle with their learning over all the years
of schooling. Of course, literacy deferred is
literacy denied.

But if the government were serious about
its concerns for improving literacy standards,
it would have directed its increased funding
to the source—students and schools, where
the children are every day. But, once again, we have had ideology, particularly on the part of the former minister, overcome good sense. Once again, the Commonwealth has tried to implement this scheme without any prior discussion with the states. So, instead of working with schools and the systems, the Howard government took over the idea of giving this money to private brokers who had no real experience in this kind of work.

Now that the program has failed to deliver for most eligible students, the government is trying to blame the states. We know how good this government is at trying to find someone else to blame. It blames the states, even though it refuses to work with them in the first place. Some of the brokers are, very sensibly, school authorities, but others are private providers and enterprises. I want to take the parliament through the results of this program. Answers to Senate estimates questions revealed a nationwide take-up of only 36 per cent by mid-November last year. That is what I would call a flop of a program.

Let us have a look at a state by state analysis of the figures for this program, which shows a much poorer performance on the part of commercial brokers, particularly when compared to the performance of school authorities. For example, in those states where we had the state education departments—that is, New South Wales, South Australia and Tasmania—doing this program, we had significantly improved take-up rates of eligible students, going up to 69 per cent. But the notable failure of this program is the performance of a private company, Progressive Learning, which has failed spectacularly to deliver tutorial programs to eligible students in Queensland and Victoria.

These figures from the Department of Education, Science and Training show that just 656 of the 5,717 eligible Victorian students got this voucher. What a failure! Only 12 per cent of eligible students received the voucher. The vast majority of students assessed at their year 3 benchmark testing as requiring extra literacy assistance have now already sat the year 5 literacy benchmark without receiving any tutoring at all. Progressive Learning also charged a $250 administration fee, so the few students in Victoria who actually received any tutoring got only $450 of the value of their $700 voucher.

The government also issued contracts to companies to deliver the tutorial voucher program in the full knowledge that the companies could not talk to the parents because they were not legally able to obtain their contact details. Of course, I am sure we will hear the minister say that in her view it is the states’ fault. The previous minister knew that this was the legal situation and decided to go down his ideological track rather than doing it sensibly in cooperation with the states. The program has been an administrative disaster—more about this government’s ideological obsession with bypassing state school authorities than what it really should be about, which is helping students who desperately need support. We know the government like to use the term ‘voucher’. No doubt it made them feel good using that sort of term. It is a bit like hitting student unions—they are more concerned with how it sounds and how it looks than what it actually does.

If turning a blind eye to the practical effects of populist initiatives is a key competency for a minister for education and training in the Howard government, then the former minister is right up there. He certainly gets top marks for populism and a very big F for delivery because he has been incapable of ensuring that children who need help with their reading have the assistance this government said it would deliver.

Labor will support the carrying over of unspent moneys, not because we think any-
thing about the extraordinary incompetence of this government but because there are children in need of literacy assistance and support. But we also need to protect the integrity and value of this funding, so I foreshadow that during the consideration in detail stage of the bill I will move a substantive amendment to strengthen the conditions of funding to make sure that only qualified and accredited educators deliver this money. With this amendment we want to ensure that persons and organisations who deliver these programs other than already approved school authorities, because obviously they are registered to deliver these programs, meet national standards of quality—that is, professional teaching standards of tutors—and probity, such as financial and administrative records of whatever private companies might be involved.

Labor supports the flexibility in the management of program funds between years. The current act does provide for some funding changes by regulation—for example, in cost supplementation for general recurrent and capital grants. The extension of regulation-making powers will introduce greater flexibility, allowing the government to expedite the reallocation of funds between program years because of changing or unexpected circumstances in the delivery of school programs. Regulations are, of course, subject to the standard disallowance procedures by either house. Nonetheless it is arguable that removing the requirement for legislative amendment may result in a lesser degree of parliamentary scrutiny for any changes to school programs funding covered by item 21.

We have raised similar concerns about provisions in the Student Assistance Legislation Amendment Bill 2005 and the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005. Both contain provisions that replace requirements for legislative amendment with the power to amend by regulations and guidelines. That said, we do not want schools and students to suffer from administrative incompetence, and there are good reasons for carrying over funds in some circumstances. We understand there can be delays in capital projects, for example. But none of that gives a blank cheque for this flexibility to be abused by any minister for political purposes. We have seen already in the allocation of this schools capital funding that the previous minister has handed out huge grants to himself and his mates in the Liberal and National parties. I hope that the new minister does not continue down that path.

I want to speak briefly about the provisions in this bill aimed at providing maximum general recurrent grants for a small number of non-government schools that cater for students with emotional, social or behavioural difficulties. We certainly support access by these schools to maximum general recurrent grants, as is already the case for special schools. These are high-needs schools dealing with high-needs students and they fully deserve increased support. We are only talking here about a small number of non-government community and church based schools that cater for students who have left mainstream schools because of their difficulties. The schools provide intensive support for these young people, some of whom are homeless and all of whom are in substantial need. These schools attract general recurrent grants under the government’s policy of funding schools according to their socioeconomic status characteristics. A strict application of the SES criteria, however, would deny these schools the maximum grants they need for the highly intensive support they provide to their students.

The bill before the House provides for a separate classification of ‘special assistance
schools’ to enable the schools to receive the maximum level of general recurrent grant as received by non-government special schools for students with various disabilities. Labor supports this amendment, although I would point out to the minister that there are a number of schools in the government sector that need similar special consideration.

These amendments are sensible. Once again, they will depend on cooperation with state authorities that recognise or register non-government schools for federal and state funding. Interestingly the amendment bill points out that the blanket approach of the government’s funding scheme, based on the socioeconomic status of school communities, is flawed. Such a crude and simplistic approach does not take into account the specific needs of students or the resources actually available to them; it simply applies the SES of the parents’ locations without considering the particularly intensive education and support the schools provide. This principle of funding being based on an assessment of actual need and actual resources available is one that should apply to all schools.

There is another part to this bill that corrects a technical flaw, where references in the act about accountability refer to section 20 rather than section 30 agreements. Labor agrees that the change to subsection 36(4) in the act has to be made. We note the assurances in the explanatory memorandum that this technical change will not affect the rights of or obligations on any person.

I have set out in detail our concerns regarding the administrative incompetence and political misuse of the two significant funding programs dealt with in this bill. Both Investing in Our Schools and the tutorial vouchers initiative highlight the mess that has been left to the new minister by her predecessor, a mess this bill only begins to deal with. For these reasons, I will move the second reading amendment circulated in my name, and I urge the House to support this amendment. In doing so, I note that it should not be necessary to have to move such a second reading amendment to call on the government to make sure all programs are administered in ways that deliver maximum educational benefits for students. As my remarks indicate, that is not how this government has allocated this money. This money is going to those electorates that have Liberal and National Party members. It is not being distributed to the students or schools that need it most. It should not be necessary to move this amendment; unfortunately it is. On this occasion we need to explicitly highlight the administrative incompetence and the political pork-barrelling that has gone on with these programs. Therefore I move:

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) condemns the Government for:

(a) failing to deliver urgently-needed capital funds and literacy support in time for schools and students to achieve the benefits of those funds;

(b) failing to protect the integrity and probity of its program for tutorial literacy vouchers, especially in the appointment of brokers for the delivery of tutorial assistance in some states;

(c) approving capital funding under its ‘Investing in our schools’ program in an unfair and unequal way between schools and regions, and

(d) failing adequately to take into account the relative educational and financial needs of schools in the allocation of capital funding under the ‘Investing in our schools’ program; and
calls on the Government to:

(a) ensure that all programs are administered in ways that deliver maximum educational benefits for students;

(b) take steps to assure the educational integrity and probity of its tutorial assistance for students with literacy needs;

(c) direct some of the unspent funds for tutorial assistance for students with literacy needs for use by schools to develop appropriate programs for their students, in consultation with parents; and for the professional development of teachers to improve their literacy teaching skills; and

(d) support improved accountability provisions for funding under the capital grants and tutorial assistance programs”.

The DEPUTY SPEAKER (Mr Lindsay)—Is the amendment seconded?

Dr Emerson—I second the amendment and reserve my right to speak.

Mr RANDALL (Canning) (10.40 am)—I stand today as a proud member on the eve of the 10th anniversary of the Howard government in the House of Representatives pleased that I have the opportunity to speak on the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006. I have not been here for the 10 years of the Howard government; I had a rest for three years. As a consequence, I cherish even more the opportunity to be here today representing the Howard government and my electorate of Canning in this place so that we can bring better government to this country, which we have done over the last 10 years.

As I said, I am very pleased to speak on the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006. It is a pity the member for Jagajaga has left because I wanted to address a few remarks to her. Her ideologically driven diatribe is just an indication of why we are on this side of the House and they are on that side. We have had only today Martin Ferguson, the member for Batman, pointing out that the policy views of the Labor Party and the politics of envy placed on school policy before the last federal election is one of the things that they must move on from. We have a division in the Labor Party about the policy initiatives, particularly the educational policy initiatives, which were also highlighted in The Latham Diaries, which I read over the Christmas break. The diaries allowed me to peer into the dark heart of the Labor Party and to see some of the home truths that came out. Mark Latham pointed out the flawed policy of the politics of envy, which the Labor Party took to the last federal election. I am sure it cost them dearly because they were in the business of dividing the Australian community on the basis of class and envy and the Australian people saw through it. I am pleased to say that the Australian electorate is obviously a very sensible group of people, which makes very good judgments.

I want to deal with a couple of the elements of the bill before I go to the Investing in Our Schools program. As it relates to the special non-government schools that do not qualify under the SES program, there needs to be special consideration that they receive the maximum. I am pleased to see the opposition agrees with that. The tutorial voucher initiative is a good policy. The funds that have not been used in 2005 will be transferred to 2006. This is for the children who did not achieve the year 3 minimum national reading benchmark in 2003. They are able to access $700 in the form of a voucher to achieve remedial help through approved brokers. Interestingly, the member for Jagajaga slams this again. I do not know whether the
member for Jagajaga thinks we ever did anything good, but she slams this again as being wrong, out of kilter and not representative. The member for Jagajaga said this money should be sent back to the schools, yet when we send Investing in Our Schools money to the schools she says that is wrong and we should be dealing through the state bureaucracies. On the one hand, she says we should be sending money back to schools for literacy initiatives and, on the other hand, she says we should not be doing it in the Investing in Our Schools program. There is a good deal of hypocrisy there.

Interestingly, New South Wales and Tasmania have had a big take-up—69 per cent for New South Wales and 61 per cent for Tasmania—but my home state of Western Australia had only a 30 per cent take-up. The crying shame of it all is that the member for Jagajaga’s state had only a 12 per cent take-up of this initiative. You have to ask the question: why? It has nothing to do with implication; it has to do with the fact that in many cases the voucher initiative could not be delivered to some of the states because not all states were reporting children’s performances against the national literacy benchmark to parents. So how could it be delivered if they did not have the information?

These states deliberately tried to subvert and sink this initiative because they are ideologically opposed to it. In Western Australia, for example, the previous minister, Alan Carpenter, who is now the Premier, railed against this initiative. That is why there is a low take-up rate. We know that in Victoria—the member for Jagajaga’s state—the bureaucratic bungling by that state and the obfuscation by the education bureaucracy was largely the reason why Victoria did not take up this initiative and give it to the young children who quite rightly deserve remedial treatment and remedial action.

In terms of the amendments by regulation, the extension of regulation-making powers will introduce greater flexibility, allowing the government to expedite the reallocation of funds between programs because of unexpected changes in circumstances in the delivery of school programs. We have already seen this occurring in the voucher program and the Investing in Our Schools program. They are very good initiatives which I am pleased to see the Labor Party supporting, albeit reluctantly, if you listen to the member for Jagajaga.

The Investing in Our Schools program is the main reason why I am very pleased to speak on this bill today. It is a sensational program for schools throughout Australia. It is a $1 billion program, with about $700 million going to the government school sector and $300 million going to the non-government school sector. That is over the period 2005 to 2008. Schools in this program can apply for up to $150,000. If they do not successfully take the whole lot in the first year—say, they take $10,000 to start with—they can continue to apply for funds from this program over this period. They are doing that and, as we have heard, they are doing it in a rush. In my electorate, for example, it is a highly popular initiative. It is really pleasing to see that the take-up has been so high and so welcomed.

I am going to outline to the House a number of the projects that have been funded in my electorate and some of the responses I have had from schools. If you listen to the Labor Party, you would think this is a rort and is wrong in its delivery. The member for Jagajaga called it a mess. All I can say is that it is a happy mess because I have not met one school principal or school body yet that wants to give the money back. In fact, they are really happy to be involved in this program and they have contacted me in droves because suddenly it is seeping through. Not
all of them quite understood what was going on. Initially there was a slow take-up, but then it turned into a rush once they all started talking to each other. The good, hardworking P&Cs, parent bodies and school principals are out there with projects that they have wanted to deliver to their schools for years and have not had the funds to do so.

One of the interesting things that the member opposite stated was that this was a pork-barrelling initiative. She talked about there being only $500,000 on average going to Labor Party electorates and $700,000 going to Liberal electorates. The fact is that, if you apply for these funds, there is a good chance you will get them. If you do not apply for these funds—this is the crux of the matter—you have no chance of getting them. Why are schools more likely to be applying—if you listen to the member for Jagajaga—from coalition seats than from Labor seats? It is because we are promoting the initiative. I have written to all of the schools in my electorate—the government schools and non-government schools—and told them about this marvellous initiative. I have told them that I will endeavour to put in a support letter for the worthy projects for their schools.

Just to demonstrate, even before this project got up and running, I happened to go to the Jarrahdale Primary School in my electorate, which is only a small school. The teacher there, Mr Ross Murray, happened to say to me last Anzac Day that they were really keen to get some money because, with fewer than 100 kids in a small town, they were struggling to raise the money to build a shade over their playing area. You have heard the story about the kids that cannot go out during the summer in Western Australia because the monkey bars are too hot and the play equipment is too hot to sit on. Mr Murray wanted to put a shade over the play equipment at his school so that the kids could use it, but he could not raise the $12,000-odd to do it. Mr Murray is very happy now because not only did they get the money but also they have a shade structure over their playground equipment. This is something real and tangible for their school and they are very happy to have had it delivered. I can tell you that I am very welcome at Jarrahdale Primary School and many of the other schools in my electorate because they know that we are delivering the programs that the Labor Party dropped the ball on.

Why are schools so bereft of funds for these programs? During my career as a schoolteacher—and I was a teacher off and on for 18 years; I was not very politically active in those days so it was not very obvious to me—I could always tell when the Labor Party was in government because they were big spenders on the wrong sorts of programs. They would pull the money out of state schools, because they are their schools, as an area of savings. As a result, maintenance of the schools and the projects that were implemented in the schools during the administration of a Labor government at a state level fell by the wayside. It was not until a coalition government got back in again with decent receipts and budget surpluses that money could be put back into school infrastructure. During Labor’s reign, paint comes off the railings and gutters fall off roofs, but when there is a change of government they start fixing these things up. Currently, there are Labor governments in every state in Australia. Why are schools so bereft of infrastructure? Because the state Labor governments have stopped investing in their own schools and they are begging somebody else to go in and help them with these necessary items.

The member for Jagajaga described this initiative as pork-barrelling. She was quoted in an article entitled ‘School aid rorted: La-
bor MP in the West Australian newspaper as saying:

The Federal Government is rorting its Investing in Our Schools program by channelling more money into Liberal-held seats at the expense of Labor seats, according to Jenny Macklin.

Five WA electorates getting the most money under the scheme, Kalgoorlie, O’Connor, Pearce, Forrest and Canning, were all held by Liberal MPs.

Let me go through these seats. Kalgoorlie is at about six per cent, O’Connor is at about 25 per cent or some such figure, Forrest is in double figures at over 10 per cent and, surprise surprise, I am at 9.6 per cent. I cannot see any pork-barrelling in marginal seats there. The reason more money is not put into schools in Labor held seats is that Labor members do not promote them. As I said, I write to the schools and I promote them. My wife teaches at a school in the electorate of Swan—I was hoping the member would still be in the chamber so that I could explain this to him. Her school, South Perth Primary School, is unaware of the availability of this money. I wonder why! The Labor Party do not want to tell the schools of this good federal government initiative, so they are not promoting it. If they do not promote it, the uptake is obviously going to be much less.

If the member for Swan will not write to his schools and tell them the money is available—I probably cannot write to the schools—I will encourage one of my Senate colleagues to write to all the schools in the electorate of Swan and tell them this money from the Investing in Our Schools program is available for infrastructure and maintenance programs in their schools. Then we will see the uptake in marginal electorates such as Swan and Cowan in Western Australia. I suspect that this is occurring right across Australia. The Labor members are trying to dumb down this initiative because it is not theirs and they do not support it. Mind you, I bet that when the schools take it up the members do not go out to the schools and say, ‘You really should give that money back.’ You will not see that at all. The Labor members know it is a highly popular program, but they are not trying to get it up above the radar because it is not their initiative and they do not have any interest in promoting good government policy.

Interestingly, the member for Jagajaga, who slams this and says it is all a rort, is on a margin of 4.5 per cent in her seat in the state of Victoria. I would have thought that if the member for Jagajaga wanted to be re-elected, particularly with the Labor Party’s woes in Victoria at the moment, she might actually want to promote some good programs in her schools rather than talk them down. I am sure that the parent bodies there would be very happy to have these sorts of infrastructure agreements.

Let me turn to the ridiculous behaviour over pork-barrelling. The state government assessment panels, loosely known as SATs, are state government advisory bodies. So state Labor government advisory bodies go out and assess these programs and make recommendations to us, and we take their recommendations. I will tell you how strong the recommendations are. Falcon Primary School in my electorate received over $100,000 for landscaping its grounds, air-conditioning of special services, block floor coverings, school interior painting, library computer benchtops, data cabling and play equipment upgrades. These were all things the school wanted and they got over $117,000. But the thing they really wanted was a freezer room, costing $16,000, which the state assessment panel did not think was a worthy item. I am very disappointed by that because, when I first went to this school about this program, that was the main item they said they wanted. So they got what they did not want and did not get what they did.
want. This is how much integrity this program has: the assessment panel’s recommendation to us was against the wishes of the local member and, as a result, the school was well funded but not for the things they wanted. Mind you, I am still going to try hard for the freezer room because they still want it. They still have not got up to $150,000, so we hope that in another round of funding we can convince the assessment panel that the freezer room is needed for the school canteen.

One of the other reasons we are having problems with this item in Western Australia—and I will certainly be putting out a press release about this—is that people were not exactly sure of how they should apply. They had the option of having the program funds delivered directly to the school or through the state education department. And guess what the state education department has done? It has taken a fee of 11 per cent to handle each one of these programs. It is skimming off 11 per cent as a handling fee. If you take 11 per cent off the Falcon Primary School’s $117,000, the department is getting about $12,000 or $13,000 and the school then has to find that money to do this program.

I am sure that the Western Australian Minister for Education and Training, Ljiljanna Ravlich, whom I know and have a lot of respect for, would not really be happy with this because she knows how important this money is to the schools. I know that the previous minister wrote to her, but obviously the departmental officials wrote back and talked about handling fees, compliance and all that sort of stuff. I am going to be ensuring that my schools do not go through the state education department, because this is how they are being treated.

The other thing the state education department has imposed on these bodies is a requirement to use approved government contractors to do the work. So the state government gives Falcon Primary School a list of approved contractors—businessmen—from Perth who have to travel for over an hour down to Falcon Primary School to do the work. In an area where we have a shortage of people working on these sorts of projects, why can’t the local small businessmen apply to build these structures and do this work? Because the state education department has imposed this condition on the schools.

I could go through many of these programs, but I just want to outline one of them. Pinjarra Senior High School has been in dire need of funding for some time and, as a result, was very happy when it received $58,000. Most principals, particularly in government schools, do not like to say too much because they know they will be targeted by state Labor governments and authorities if they speak out, but Pinjarra principal Beth Aitken was quite happy to say on the record yesterday:

I was absolutely delighted that Pinjarra high school received funding under the Investing in Our Schools program. We planned months ago to apply for round 2 funding. After the extensive exercise, our hard work paid off. During the approval process, which was very thorough, we were continually asked how we intended to use these funds in accordance with the guidelines. As schools may apply for up to $150,000, we have every intention of applying for further funding.

This is a school principal who is very happy with the program. So the Socialist Left of the Labor Party and the member for Jagajaga, who are trying to dumb down this program by saying it is uneven, inequitable et cetera, are totally wrong. The government is doing this program in cooperation with the schools because they are happy with it. The member for Jagajaga talks about doing it in cooperation with the states, but why would you when...
you see the conditions imposed by the Western Australian Department of Education and Training? It is obvious that we have to go directly to the schools. As a result, the politics of envy is raising its head.

Many other schools in my electorate have been beneficiaries of this program. Just to outline how widespread across the electorate they are, Cecil Andrews Senior High School at Armadale received $87,000 for an ICT upgrade and Excelsior Primary School at Canning Vale, a brand new primary school which thought that, because it opened only last year, it would not be eligible for any of this, received $150,000 for ICT, library, music resources and sporting infrastructure. So it is a great program and it is well supported. I support this bill.

(Dr Emerson)

The needs of the student must come first. The needs of the student must prevail over dogma on either side of politics when it comes to education policy. In the 21st century it has already been established that education is the paramount source of a nation's prosperity. Education, indeed, is the key that unlocks two doors. It unlocks a door to a prosperous nation. It unlocks a door to a fair nation. A government can provide no greater gift to young people in this country than a good education that is not compromised by the dogma of any politician in federal or state parliaments.

However, the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006 perpetuates the flawed SES funding model, flawed because that funding model, although ostensibly based on the socioeconomic status of the parents whose children go to school, does not give an outcome based on need. We have seen in this parliament long and very acrimonious debates about funding going to the wealthiest non-government schools in this country. The fact of the matter is that by the year 2008 the wealthiest 64 non-government schools in the country will be receiving under the SES funding model an extra $100 million—indeed it could be much more than that—than they would have received under the previous funding model. I will not engage in the politics of envy. I am simply pointing out that the needs based funding model that the government has developed is so fundamentally flawed that the wealthiest non-government schools are getting some of the biggest benefits. That is either by accident or by design, and I do not want to spend too much time in parliament making accusations as to whether it is deliberate or it is unintentional but incompetent. Either way it leads to a very unfair distribution of funding and violates the principle of the needs of the child being paramount in determining funding allocations.

This legislation seeks to accommodate delays that have occurred in capital works spending and literacy support. There have been very substantial delays. It is true, as the member for Jagajaga has pointed out, that that can be put down to incompetence on the part of this government. Any time that there are major new programs there is always a period of trying to get those programs up and running and getting staff on board within Commonwealth departments and governments systematically underestimate the challenges associated with doing that. As a consequence, very often new programs do produce delays that could and should have been anticipated at the time. So there is a problem of government incompetence. Nevertheless, this legislation accommodates those delays and makes sure that the funding is preserved and does go to Australian schools.

Similarly, there have been real problems with the implementation of the program for the tutorial literacy vouchers to be provided by this government. This program is meant
to be for students who do not meet literacy standards but, as we have heard from previous speakers, some students who have not met literacy standards in year 3 are now sitting year 5 literacy tests without having had the benefit of this program. The take-up rate has been disappointingly low, particularly in Victoria and in my home state of Queensland. One of the fundamental reasons for that is the Howard government has refused to work with the states on the implementation of these tutorial literacy vouchers. And that is what I mean about dogma prevailing over the needs of the child. During the election campaign, the government effectively indicated that it was unwilling to work with the state governments on matters such as these. That was an expression of its dogma. It was an expression of the federal government’s centralisation of government activity that has been displayed in so many areas of government policy. If the Council of Australian Governments and the ministerial councils had been properly used, we would have had a better result in relation to these vouchers. Since Labor is so concerned that the needs of the child be met in education, we are supporting this legislation but with a substantive amendment that the member for Jagajaga will be moving during the consideration in detail stage and also with a second reading amendment that has already been moved, which I had the pleasure of seconding.

Moving more broadly to the state of the education system in Australia, international tests demonstrate that on average Australians do very well compared with those in other developed countries. That is heartening. Overall our education system measures up quite well against other OECD countries. But, very disturbingly, a disproportionately large number of Australian students do badly—there is a long tail of them—and these are the disadvantaged students, the disadvantaged children, in our society. Some of these measures, particularly the tutorial literacy vouchers, are conceptually designed to help ameliorate those problems of disadvantage, but dogma has gotten in the way and they are not working very well.

The lack of attention being paid to Australia’s disadvantaged students is a national disgrace. The costs of it are huge not only to the children but also to the wider community and to society as a whole. The truth of the matter is that today’s disadvantaged students and neglected students are very big contributors to tomorrow’s prison population. If you look at the history of prisoners in our jails, you will find very high levels of functional illiteracy. Very commonly, a large proportion of the prisoners have been expelled from school or excluded from school on a number of occasions. A very large proportion of them left school before completing year 10—not year 12, but year 10. So the costs to the community of neglected and disadvantaged children in our country are being felt every day.

The cost of accommodating our prison population, to put it in dollars and cents, runs to more than $2 billion a year, but that cost is insignificant compared with the trauma of broken homes, domestic violence, criminal behaviour such as breaking and entering, and substance abuse—addiction to very bad and damaging drugs. All of these costs are felt by the wider community.

My electorate substantially covers Logan City, and it is clear that some very good work is being done there, but the problem of chronic school absences in Logan City is acute. It is clear that several hundred year 7 students in the Logan-Beaudesert area miss school for more than 20 per cent of the year. If they miss school for more than 20 per cent of the year, they cannot participate effectively in school and they cannot get a good education. A staggering 65 per cent of those chronic school absences are parent con-
doned—that is, it is not a naughty little kid wagging school without the parent’s knowledge; the parent knows it and condones it. I hear statements such as, ‘If it was good enough for me not to attend school, it is good enough for my kids not to attend school.’ I hear evidence of caseworkers saying that on occasions a mother who is just so depressed—often it is a single mother who is just unable to cope—keeps the kids home, perhaps to help her out. These are great social tragedies, yet they are being kept out of the public gaze because the problem is so large. The measurement of the number of kids who were missing for more than 20 per cent of the year led to a caseload so great that there was no prospect of the authorities being able to deal with it, so they lifted the bar to those missing for more than one-third of the year. These children are neglected and they are being condemned to a very tough life.

It would be easy to conclude, as so many people do, that this is a problem unique to Logan City or to a few places around Australia—that it does not really happen in middle Australia and it does not happen in affluent Australia—but the truth is that it does happen in middle Australia. However, there are no coordinated or nationally collected statistics on chronic school absences. I say here today that I will be shining a light on the problem of chronic school absences in this country, because I believe it is the single most pressing issue facing Australia today.

We should be embracing an agenda where economy meets society. The Council of Australian Governments has an opportunity to embrace such an agenda. Let me explain. Premier Steve Bracks, Premier Peter Beattie and the other premiers have been doing a large amount of work on a social agenda: investing in the education of young people, remedying social exclusion and social disadvantage of school students and investing in preventative health. It is a very wise and modern agenda that merges economy and society, because those are good investments for the economy as well as for society.

There was an opportunity at the Council of Australian Governments meeting a couple of weeks ago for the Howard government to replicate the national competition policy principles by agreeing to ‘competition payments’—in this case reform payments—to the states, which have to bear a very substantial amount of these costs, and to consider them not just as a cost but as an investment in the future and, as the states achieved particularly good outcomes, those payments would flow. The Commonwealth did not rule that out, but it did not formally embrace it. I, for one, would like to see that happen. I would rather the Commonwealth and the states work together through the Council of Australian Governments and the ministerial councils than see the dogma that is driving this government with a number of these programs to bypass the states. Students only lose as a result. Perhaps it makes Howard government ministers and backbenchers feel good to bypass the states, but the needs of the child must prevail over dogma on both sides of politics.

Another area of neglect that feeds into the problem of chronic school absences is in preschool education. In Australia today around 60,000 young kids are missing out on a preschool education, and most of them are disadvantaged. When I talk to primary school principals, they tell me that it is very easy to identify which children arriving at school have had the benefit of a preschool education and which have not. A preschool education assists with the socialising of children so that they get used to being with other children. It gives them very basic learning skills, the purpose of which is that, when those children arrive at school, from day one they are ready to learn.
Children who go through a proper preschool education arrive at primary school ready to learn. The children who do not, very commonly, are not ready to learn because they are trying to get used to being with so many other kids and they do not necessarily have those basic learning skills, particularly if they come from households where the parents themselves did not have a good education and cannot do basic reading at home. In many of those disadvantaged households the only book is a telephone book. I know that in situations such as this in my area of Logan City teachers are trying to get kids to read the junk mail—at least it is some written material that is sitting in their homes. It is better than nothing. So that is the low base from which we start in many of these instances.

I have to say that it was a previous Labor government, in 1984, that abandoned Commonwealth responsibility and involvement in preschool education, other than for Indigenous students. This government has carried that on. This government has done some pretty good work in relation to Indigenous students, in making sure that they have some sort of opportunity to have a preschool education, but so many non-Indigenous and Indigenous children are missing out on a preschool education.

The government did embrace an early childhood development program a few years ago, but there has been no mention of the idea of a nationally coordinated, nationally consistent preschool education program. One consequence of that is that we do not know in fact how many kids are missing out on a preschool education. If you look at state statistics that are compiled, some states are reporting that 101 per cent of four-year-olds are attending a preschool. It is bewildering that 101 per cent could be attending, but they are the official figures coming out of some of the states. The truth is that a lot of kids are missing out on a preschool education. We should be embracing a nationally consistent approach to quality preschool education and making sure that every four-year-old gets at least 15 hours of preschool a week, either at a preschool or, while it is being ramped up, at least at an accredited child-care centre, so that it is not just childminding but a genuine preschool education.

Since 1984 virtually all the enrolment growth in schools in Australia has been in non-government schools. I think there has been about a one per cent increase in enrolments in government schools. One consequence of this is that, as parents who can get together enough money are taking their kids out of government schools and putting them into non-government schools, in poorer areas those classes are being residualised. What I mean by that is that a very large proportion of those kids are very needy. They have disadvantages, and those disadvantages should be remedied in any decent society but the funding is just not there.

That is why I say we should base our funding on the needs of the child, focusing on the needs of the child, not on whether the school is a non-government or a government school. I point out that distinctions between government and non-government schools in Australia are blurring now as non-government schools get more funding out of the SES funding model and as government schools rely more and more on the contributions from parents—effectively de facto fees and other so-called voluntary contributions which if not made would mean that the schools in some cases would be unable to pay the teachers, and they certainly would not be able to get some of the most basic facilities.

So those distinctions are already blurring. Let us concentrate on the needs of the child and let us not get hung up on the dogma of whether kids are going to a government or a
non-government school. Under a needs based funding formula, extra funding would go to those schools for remedial literacy and numeracy programs and to full-service schools—that is, counselling, anger management, school nurses, a visiting GP. Marsden State High School in my electorate is a magnificent example of the full-service school approach. There are huge opportunities. Let us get some common ground across the political divide, concentrate on the needs of the child and abandon the dogma that has for so long marred this debate.

Mr MICHAEL FERGUSON (Bass) (11.20 am)—I rise today to speak to the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006, and in so doing allow school communities around Australia, particularly those in my home state of Tasmania, to no longer go unheard. Today they will be given a voice and an opportunity to be heard. Before dwelling on the bill I would like to congratulate the member for Rankin, as he departs the chamber, on much of his contribution today. I would have to say in a spirit of bipartisanship that it is really quite helpful for us to have these kinds of discussions and to be able to look at the pitfalls of education in Australia in a rational, sensible and calm way.

The member for Rankin’s contribution today stands once more in stark contrast to the member for Jagajaga’s contribution. I regret to inform the House that the member for Jagajaga is no longer in the chamber to listen to the debate in which she has been so antagonistic. The contributions of the shadow spokesman for education are always so angry, in stark contrast to those of the member for Rankin. They are always embedded with dogma and even, at times, hatred towards the government of the day—in this case the Liberal government—simply because of its colour. It is the same dogma which she uses to attack the Howard government; the previous excellent minister for education, Dr Nelson; and the current excellent education minister, Mrs Bishop. But that same dogma prevents her from ever challenging her state Labor colleagues. I am filled with regret at this fact.

I do not think anybody in this chamber today, or anybody listening to this broadcast or reading the Hansard, is confused any more about who is responsible for state education in this country. The Australian Education Union and the Australian Labor Party in the past have tried to provoke some sort of twisted rewriting of history as to who is responsible. The reality is that state schools in Australia are the responsibility, principally, of the states.

I tend to have a slightly different view to a black and white one, though. Really, they are the responsibility of all of us—all levels of government. I have seen in Tasmania how even local government is beginning to have a major role in the long-term success of schools in its municipality. I cannot think of a better example than Scottsdale High School, which is in my electorate of Bass and in probably one of the most beautiful corners of Australia in the north-east—Dr Nelson has visited there. The local Dorset council was one of the greatest supporters and promoters of a major upgrade that occurred there in recent times. All levels of government share a responsibility for education in this country. That goes not just for state schools but also for non-government schools. We have a shared responsibility, because we ought to have a shared commitment to the future of this country.

In closing, I will not throw too many more bouquets to the member for Rankin, but I will say that I really appreciated his remarks, which were directed at children who in some cases are being neglected. This is a most regrettable thing that is happening in Australia.
in certain situations. I would like to join with him today in saying that I too would like to commit to seeing a redress and an improvement in the future prospects for children who just do not get the same start in life that so many others do.

Apart from a minor drafting area, there are five main features of the bill that we are debating today. The first is to create capacity within the legislation for the government to be able to give more support to certain types of so-called special schools that cater for students who are at risk of leaving school for, if you like, non-academic reasons, such as social, emotional or behavioural problems.

The bill will also allow the government to reallocate unspent funding from the 2005 program to the 2006 program for government schools under the Investing in Our Schools program. It will also allow the government to bring forward funding from the 2008 program into 2006. The bill will also allow unspent funding from the generally very successful pilot known as the Tutorial Voucher Initiative, which was conducted in 2005, to be used in the 2006 program year. I welcome that. The bill also allows greater flexibility for the use of funding under the act to allow funding for a program year to be carried over or brought forward as necessary to another program year. I am greatly supportive of this.

It is time that schools in Australia and students in particular are heard again. I appreciate that health has been a major facet of political debate in recent years, and I hope that it continues to be an important issue that is discussed and debated. I still believe that education is one of the great frontiers where we need to make more progress in this country. That is why I am proud to be a part of the Howard government. It is not about dogma; it is about our commitment to students and the future of our great country. This government, in word and deed, is about building better communities, and one way we can do that is by giving more and better support—and strategic support—to schools all around Australia, and in particular to students, from whatever school they may come. Through this bill we will be able to provide more opportunities for the boys and girls who, in some cases, attend schools which have been neglected by their owners or custodians, the state governments.

In my home state of Tasmania, the Australian government is spending millions of dollars every year to fund infrastructure projects in schools that the state government has left behind. I am not even of a mind to congratulate the Australian government too much on doing that. I believe that the Australian government is doing what it ought to be doing—investing in our schools. We do not need a gold medal or a blue ribbon from our peers or from voters to tell us what a great job we are doing. I feel that it is our responsibility, and I feel that we are doing a job and that we should get on and continue to do that job.

However, having said all of that, the Investing in Our Schools program was a commitment made by the coalition prior to the 2004 federal election—an election which saw me and a number of my colleagues on this side of the House elected for the first time. I believe that the Investing in Our Schools commitment was one of the policy successes and major reasons for the historic return of the Howard government, which is now just one day away from achieving its 10th anniversary.

I am so proud of this program, because I have seen the way it has been appreciated and taken up by school principals, school teachers and by school parent and friend bodies. They have seen an opportunity to have an input into the future improvement of their schools. We have witnessed schools
which have suffered similar neglect to the neglect suffered by some of the children that the member for Rankin described. I was one of the teachers who worked in those schools. As a member of federal parliament, I am very proud to be able to have as part of my canvas the fact that I worked as a public teacher in secondary state schools in Northern Tasmania. Those years were some of the best years of my life.

I digress for a moment to say that the last year of teaching I did is the one that I remember most fondly. After a number of years of being inexperienced, I think I got a little better. I enjoyed it so much—it was the best year of teaching I ever did. But it was the coldest year I ever taught. Can you believe, ladies and gentlemen, that in the state of Tasmania there are classrooms that do not have heaters? People might not believe this, but it is true. I worked in a school where the classrooms in the middle of winter were unheated. We could survive the summer months because they were brief and not that hot, but for some period of time the classrooms were so hot they were unbearable. But, being Tasmanian, we could live with that because we knew that the season would come and go and that for much of it we were on recreation leave. I suppose that is part of being a Tasmanian. It can get very hot, but when it does you know the end is not far away.

I taught in classrooms with no heaters—to correct myself, they did have heaters but they were not working. This was at a time when Tasmania, like it is today, was enjoying record receipts of federal funding—not just through the federal schools funding program but through its recurrent revenue, which was achieved by the great success of the GST and a growing economy. So what did I do? I would carry, along with my little tote tray of whiteboard markers and chalk, a two-kilowatt heater from classroom to classroom. For anybody who saw me, it would have looked pretty funny to see a schoolteacher wandering from class to class with a little fan heater. I have to say that a two-kilowatt heater plugged in for 40 minutes in a stone-cold classroom did not really warm it up very much either.

I will never allow those experiences to depart from my memory because I will never forget the way those kids felt and the lack of learning that occurred because they were uncomfortable. It was a work site and a workplace. It was where I worked but, equally, it was where those 25 to 43 students worked—it was their workplace. No adult would tolerate working in an eight- or nine-degree classroom; they would not do it. But because they were children, I think there was a view that it could be allowed to continue without being challenged. I think that is disgraceful. We are taking away not just the comfort of life but an opportunity to do well and to learn such that, just as the member for Rankin explained, children with a good start in life can enjoy a prosperous and happy future. I will never forget that, and I never want to be accused of being in part to blame for providing conditions to children in classrooms such as I have described.

The Investing in Our Schools program has already invested $650,000 in schools in my electorate alone. I am very proud of this. These are not initiatives where the Australian government has walked in and said, ‘Hey, we think you should do this or that,’ or even where the state government has walked in and said, ‘We think you should apply for the funding to achieve this or that.’ They are initiatives which have come from the school community. Who else is better placed to identify the needs of the school community? Braxholm Primary School, a very small school in my community, has already received a $50,000 grant to redevelop the playground. Brooks High School will be investing $12,000 in an IT upgrade.
Launceston College, my old college, has received a $48,000 grant to redevelop the old theatrette. Fantastic: at last Lilydale District High School will be able to provide some shaded areas to students with their grant. Mowbray Heights Primary School, one of the little gold nuggets in Bass—a wonderful school with wonderful leadership—will be making improvements to their outside shade structures as well. The list goes on.

Without naming the schools, I wish to read some examples that have been provided to me of comments which have been made in the application process. This school asked for a carpet to be replaced using the federal Investing in Our Schools program funding. In their application they said:
The age of the section of carpet relating to the project is over 30 years old. The condition of the carpet throughout this area is poor. In classrooms and office areas carpet is threadbare in high use areas and joins are coming apart. Badly worn carpet is difficult to clean, unwelcoming for students to sit on and at times can cause accidental falls.

Another school which has successfully received a grant said in its application form:
The classroom was built in 1965. The classroom is an outdated space which limits flexibility to deliver curriculum. Teachers work tirelessly to create a stimulating learning environment; however, the overcrowded nature of this classroom provides many challenges which simply cannot be overcome by outstanding teacher planning and creativity.

The third one I would like to read is, again, for carpet. Can you believe that we have schools crying out for funding for carpet? This school says:
The current carpet is hard and worn. It does not match the remaining carpet. As this is our infant block, the students are sitting on the floor a lot or are working in groups on the floor area. After lunch, the students have a rest time. They lay on the floor for this and again the current carpet is hard and uncomfortable. The existing carpet is old. New carpet will be healthier for our students, for example, dirt, dust mites et cetera. Safety—a new carpet will be less slippery because it will not be smooth because of wear.

This is a government school in northern Tasmania after nearly eight years of a Labor government which has constantly attempted to hammer the Howard government. It is one of the state government’s own schools, at a time of record state government income, largely due to the GST. The state government has allowed a school in 2005 to be confronted with an application form in which it can write words such as I have just described.

This greatly upsets me and I do not want to allow the state government to get away with it any longer. We have an opportunity in Tasmania, there being a state election very soon. I am very pleased with the shadow education spokesman, Mr Gutwein, who has constantly put the government on notice in regard to its lack of investment in its own schools. Indeed I am very hopeful that the people of Tasmania will take the opportunity on 18 March to send a message to the Lennon government with its warped priorities, which would rather spend $650,000 on a dud governor than to employ another 10 teachers, which it could have done for the same amount.

A key element of the Investing in Our Schools program is that the school community itself decides on what infrastructure projects should be a priority. The parents, the teachers and, most importantly, the students have an opportunity—which I think is a first—to be involved in deciding what initiatives will make their school better. I have already given some examples of that. I would like to think that the Tasmanian state government could not walk away from its past efforts of treating schools and students with contempt.
The Australian government is committed to education in ways that we have never seen before. I am proud to be a part of this devotion to school upgrading, but I am continually angry and frustrated at state governments who continue to overlook the needs of their schools. In Tasmania right now, at the beginning of a school year and a school term, the state government’s attitude even to special needs students is one of the clearest examples of how Labor has got its priorities utterly wrong.

Recently I attended a meeting of parents and friends who are quite concerned and, in many cases, angry about both the closure of special needs schools and the recent cutback in teacher aide time for students who have been involved in mainstream schools due to the inclusion policy. Instead of Minister Paula Wriedt addressing the meeting, she sent representatives from her department. They heard a long list of concerns, which included: the lack of ability of mainstream schools to provide support to children who have disabilities; poor application of processes for children who have special needs; and that parents feel as though they are at the end of the food chain and are simply subject to the decisions which are being made about their children. We have even heard an example of a quadriplegic child—a beautiful little girl whom I have met—who, at last report, will be left unattended for one hour per day. She is five years old. How can this be?

In the past we have had trendy decision making to move away from special needs schools. I have a personal view on this: it was a bad decision to move away from special needs schools. However, I do not want to say that all children with disabilities ought to be placed in special schools. But I do believe that, in the best interests of the child, the people who love that child the most—not the principals, the teachers or the government but the parents—ought to have a choice. I firmly believe that a key part of an inclusion policy should be a strong element of choice—they at least should have the opportunity to utilise a special school if they think it is in the child’s best interests.

I want to take the opportunity in the last moments of my contribution to call on the state government to give these students the support which they deserve and need so that they, too, like other mainstream students, can live their lives to their full potential. I commend the bill to the House.

Mr HAYES (Werriwa) (11.40 am)—One of the most significant institutions in our local communities is our schools. Let me make it clear from the outset of my contribution on the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006 that I am—and, I would imagine, every other member in this place would be—a supporter of our education system. I genuinely believe that my electorate has some of the best schools and certainly the best school administrators and educators in the country.

In making these comments about local schools, I would like to take the opportunity to welcome the new Campbelltown School Education Director, Mr Hedley Mooney, to our region. Prior to taking up this appointment, Mr Mooney was a teacher at Miller High School. He will now have the opportunity to work at both ends of my electorate. I would also like to take this opportunity early in my contribution on the bill to record my thanks for the exceptional work done over many years by Mr Greg Whitby, the former Chief Executive Officer of the Catholic Education Office, Diocese of Wollongong. Mr Whitby’s area of responsibility, apart from the South Coast, covered Macarthur—a large slab of my electorate. I know that he is a very well respected and well regarded educator and education administrator. I was very
disappointed to hear that Greg had decided to move on to the Diocese of Parramatta later this year. I am sure that he will continue his excellent work there for the benefit of the local schools and the students now under his charge.

I will not be opposing this bill, but I will be strongly supporting Labor’s second reading amendment, which points to some serious maladministration in the Investing in Our Schools program. The Investing in Our Schools program has become the smaller, school based version of the regional rorts scheme. It has become yet another manifestation of the government’s decade-long addiction to heaping largesse on places where they believe it is needed as opposed to assisting those who need it most.

When the minister says how important this program is to the government, there is no doubt in my mind that she is referring not to an overwhelming desire to improve schools as a matter of good public policy but rather to the government’s desire to use schools funding to pick up where other pork-barrelling efforts have left off. I can only presume that, when the government came up with the program, they thought that the members of the opposition would be a little too scared to criticise it, because it is dealing with federal grants to schools. When it comes to schools funding, I am not going to be slow in getting off the mark to make a criticism, particularly when I see so many schools in my electorate where this criticism is well deserved.

I refer to the funding information that has recently come to light following answers to questions on notice received by the member for Gorton. The extent to which this government is willing to go when it comes to pork-barrelling quite frankly knows no bounds. A decade of this addiction to garnering support through pork-barrelling has now extended, as I said earlier, to our local schools. This is the same government whose Prime Minister warned in the party room on Tuesday to avoid giving a sense of arrogance or hubris. You could just see the Prime Minister saying, ‘If the Australian people get a whiff of the fact that we have tickets on ourselves, we’re dead.’ With respect, a whiff of tickets is going to be a little hard to smell under the wads of cash that this government has been splashing around the place.

I return to the detail of the answers that were given to the member for Gorton. I would like to go through some details of their key elements. In round 1 of the Investing in Our Schools program some $69 million of the total $105 million was spent in coalition seats. Despite having less than 60 per cent of seats in this chamber, the electorates of government members received 66 per cent of the funding under round 1. Of itself, this is not a particularly damning statistic, but there is more. As always, you tend to find when dealing with this government that the devil is in the detail. There are a few more facts about the round 1 grants that are worthy of noting in this debate: 19 of the 20 electorates receiving the highest funding were coalition seats. The average fund per Nationals electorate was more than $1.3 million, the average fund per Liberal electorate was more than $700,000, the average fund per coalition electorate was more than $790,000 and the average grant per coalition marginal seat was more than $830,000. There was only one Labor held electorate in the list of the top 10 electorates when ranked by the average grant per school. But the most interesting thing is that the average Labor electorate received a mere $549,303.

When it comes to the same statistics in New South Wales, which is probably a little closer to my focal point in this debate, the story does not change all that much. On average, Nationals electorates received more
than $1.2 million each, Liberal electorates received more than $661,000 each and coalition electorates received more than $780,000 each, while the average Labor held electorate received a little over $489,000. Quite frankly, the statistics are at least revealing.

In addition to the financial reporting of the program, it is interesting that in the lead-up to the announcement of the successful applications, successful schools were in some instances informed prior to any official announcement. Naturally, that sort of stuff occurring in electorates is of concern and, as a consequence, I had cause to investigate what was going on and why I was hearing that some schools had been receiving calls saying that their applications were going to be successful while others were not hearing anything. I found out that, in the true fashion of this government, the reason why some government members were able to inform the schools in their electorates earlier than anyone else was that some of them were going away at the time that the official announcement would be made. I cannot help but think that this approach was designed by the same people who came up with the idea that schools who were receiving money for flagpoles had to invite members of the government to be at the official raising of the flag.

I am not going to deny that my electorate benefited from the scheme—obviously not to the same extent as coalition electorates, but it did receive $624,522 in funding grants. Some 22 schools in the electorate submitted applications for 17 projects, and the applications of 14 schools were approved. It was not the 100 per cent success rate that some other electorates experienced, but the average amount granted in my electorate was $44,000. Local schools in the electorate were awarded funds for a range of projects including airconditioning of classrooms, computer upgrades, shade structures and sporting and fitness equipment upgrades. These will be welcome additions to local schools when the government finally gets around to handing over the cheque.

The problem and the most disappointing thing about this program is that, despite the obvious bias in the awarding of funds to particular electorates, the government does not yet have its house in order when it comes to actually handing over the cash. The government knew all this was coming. The government promised all these schools would receive additional funding for capital works during the last election campaign. Yet schools in my electorate are still waiting for their cheques, and they are schools which have already been told that they are successful. They have applied and been informed, but they are going to be sitting by the mailbox waiting to see when the money comes through so they can plan the commencement of this new work.

There is no reasonable excuse that the government can come up with for not being prepared to handle the number of applications they received. It is simply not good enough to use the excuse that they were overwhelmed. It comes as no surprise that there was always going to be a rush of applications. All schools were promised the money during the last election campaign. Everybody knows that every school has a list of work that is waiting to be commenced should money become available. So why would it come as any surprise that the schools which were asking for funds, quite frankly, were not in need of those things and were not in need of having this work commenced as quickly as possible?

Unlike other programs that hand out grants, schools need a lead time to manage any capital works project. Not only is there a need to consider the time needed to complete the work but also any disruption that such work might cause to the day-to-day man-
agement of a school also has to be taken into account. I know that when some schools have experienced delays in the past, they have had to delay the commencement of projects for up to a year, as the works to be undertaken may have been considered to be unsafe while the school was still in session. As everyone knows, the longest period that schools have available to them to complete projects, particularly physical projects, is in the Christmas break. These schools need their money and they need it now.

The bill before us today will grant the minister the ability to move funds around within a funding quadrennium. I have to say that, on the face of it, this is seen as a reasonable measure that will, hopefully, allow for better management of the administration of the program in the future. Hopefully, granting the minister greater flexibility will not result in a repeat of schools waiting for their money. Hopefully, it will result on this occasion in the Department of Education, Science and Training being more adept at processing applications in a more timely fashion and also assisting schools in their endeavour to complete the tasks which are subject to the grant.

As I said, I broadly support these measures, but I must express a certain reservation. I do not know whether it is just me—sadly, it probably is not—but it is a bit rough to simply say, ‘You can trust this government when it comes to handing out money.’ It is for this reason I am somewhat reservedly supporting the granting of increased flexibility to the minister, as I am fearful that the flexibility will simply be used as a means by which the minister can manipulate this program for purely political purposes. I hope I am shown to be wrong on that. If I am not shown to be incorrect and the minister manipulates the program for political purposes, the program will be further discredited—and the statistics for round 1 of the grants have proved this to be the case.

The government has set about casting itself as the saviour of schools by splashing out $1 billion on capital works. It hopes to make itself look better than its state counterparts by contrasting their willingness to spend on school infrastructure. With the difficulty that state governments sometimes encounter, they certainly do have to manage within their budgets, particularly when they seem to be starved continually of federal government funds. No doubt if the New South Wales government received all of its GST collected in New South Wales, it would be spending more money on schools. Sadly, under the twisted arrangements—which this place has been steeped in for a little time—the New South Wales government receives only $10 billion in GST revenue, whilst at the same time it collects, on behalf of the Commonwealth, $13 billion from its residents in New South Wales.

However, instead of becoming the great saviour of school communities, the government has created an administrative nightmare for itself and one, it has been shown, it is now struggling to control. School communities, parents, teachers and, in many instances, students have come together in good faith to apply for grants under the Investing in Our Schools program. They have all worked together for the benefit of their local schools to determine priorities for work and to complete their respective applications. It is about time this government stopped dithering and completed round 1 of this program in New South Wales, while ensuring that the cheques are in the hands of the schools and not sitting on someone’s desk waiting to be put under the minister’s nose for signature.

Hot on the heels of that, I would like to see the announcement of a round 2 grant for New South Wales that many schools, particu-
larly in my area, are currently waiting on. I can only think that the delay in announcing these grants, despite the public spin, is because the government has been caught out pork-barrelling again and it wants to—at least this time—make sure that it has the balance right. I will continue to encourage schools in my area to apply for grants under the next round of Investing in Our Schools program, which I expect will be open in New South Wales in a matter of days. I will continue to tell local principals, parents and citizens organisations and anyone who has a direct interest in the wellbeing of schools in my area that, quite frankly, they should get an application in so that the schools can actually benefit from this program.

Given the increased flexibility afforded by this bill, I hope the government will improve the administration of the program. I hope that the increased flexibility will not be used to further manipulate or exacerbate the maladministration that has come to characterise this program. I hope it does not result in an absolute politicisation of an already highly politically motivated program. We have a new minister overseeing the program now, and I can only hope that she brings with her a new approach to the management of this important program.

Mr JOHNSON (Ryan) (12.00 pm)—It is a pleasure to speak on this important bill, the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006, as the federal member for Ryan. I am delighted that the former Minister for Education, Science and Training is in the chamber, because his carriage of the portfolio was an inspiration to all of us. He ought to be commended and he certainly deserves the warm applause of this side of the parliament. Indeed, I know I speak for all my constituents in the electorate of Ryan. However, on such an important piece of legislation I have never heard such a low-key, downbeat contribution as that made by the new member for Werriwa, who preceded me. I again welcome him to the parliament. I certainly think he will do a better job than his predecessor.

This bill is very important because it is all about our children. Education is an absolute top priority and top-drawer issue for the Howard government. It is certainly a priority for me in Ryan. We all know that having a vital, first-class education system is very important to the individual and to our society collectively. It is very important to the national interest, our future prosperity and the social and economic security of our people.

As the late Big Kev would have said, ‘I’m excited.’ I am excited because this bill does great things for our young people. The bill reflects the very high emphasis the Howard government places on education. I am surprised and perplexed that all the speakers from the federal Labor opposition say they are going to support this bill but they have criticised it. You are walking both sides of the street here. How can you say that you support the bill but then come into parliament and criticise it? You should support it, speak warmly of it and vote for it or you should reject it, criticise it and attack it. You come in here and say, ‘This is a terrible bill; it does great damage to our young people and our education sector,’ but you are going to vote for it. Where are the principles of the federal Labor Party? It is a quite remarkable attitude, I would suggest.

Earlier we heard the Deputy Leader of the Opposition continue this envy based politics that the Australian people have comprehensively rejected and repudiated. The 2004 federal election was another glowing endorsement of the Howard government. The people have said they do not want any of this cleavage between the private and public sectors. They want to get on with promoting the
McKAN: The interests of our children and the broad education sector. The Deputy Leader of the Opposition—the alternative Deputy Prime Minister of this country—comes in here whingeing, whining and carping, as she is want to do. It is just remarkable. Someone who would be the Deputy Prime Minister of this country speaks with little eloquence, full of envy based words and criticisms. How utterly embarrassing it would be for this country if the deputy federal Labor leader were one day to become the Deputy Prime Minister of this country. I know that the people of my electorate of Ryan will be doing everything in their power to prevent the Labor Party ever coming to this side of the parliament.

Dinosaur thinking still clearly permeates the upper echelons of the federal Labor Party and its brains trust. It is no wonder that in today’s Australian the shadow minister for primary industries, resources, forestry and tourism, the member for Batman, wrote very eloquently about all the flaws of the federal Labor Party. They are bereft of ideas and any innovative policy.

Conversely, this bill reflects the very strong, innovative ideas of this side of the parliament, which is why the people of Australia voted for the Howard government in October 2004 for the fourth consecutive time. This is a great bill. As I say, I am excited to speak about it and I am sure that the students, the education practitioners and the mums and dads of Ryan will be very pleased that we are putting this bill forward for endorsement.

This amendment to the Schools Assistance Act 2004 will allow for the provision of a record $33 billion in funding to Australian schools over the four years from 2005 to 2008. This funding is for both government and non-government schools, showing that we are not interested in cleavages or divisions; we are interested in outcomes. I encourage the Labor Party in their misery in opposition to take their eyes off the ball of division and put their energy into outcomes—they might get a bit of respect from the Australian community. Clearly, the deputy Labor leader cannot come to terms with this notion.

While the majority of funding will be allocated to government schools, we will not, unlike our state counterparts, neglect the enormous number of children in non-government schools. This bill provides for three major initiatives to capitalise on the success of the government’s Investing in Our Schools program, which has injected much needed funding into our schools. Firstly, the bill will bring forward extra funding into the Investing in Our Schools program for government schools. Secondly, it will provide extra funding for non-government schools supporting children at risk. Thirdly, it will allow for the re-allocation of funding from the 2005 reading voucher program to this year’s program. The response of schools, both government and non-government, to the Investing in Our Schools program has been truly overwhelmingly and positive.

More than 8,000 funding requests have come through from state government schools and already more than 2,600 schools have received funds from the Howard government. In responding to this success, this bill will bring forward from 2008 to 2006 over $186 million for small-scale infrastructure projects in state government schools. This is a very important initiative and I commend it very strongly. Often the importance of infrastructure is forgotten in our schools, but it can have a fundamental influence on outcomes for teachers and students alike. Students and teachers need to have areas for learning and socialising that are safe, comfortable and supportive. The Investing in Our Schools program and capital grants funding
have already distributed much needed funding to many Australian schools for essential infrastructure work.

The Howard government has committed some $1 billion to this superb and innovative policy program. It builds on the $1.7 billion that the government allocated for school capital works over the next quadrennium. Local school communities, as we all know, are forever fundraising trying to plug the gaps that funding from the state government should have filled but of course has not done so.

I want to refer to some schools in my electorate that have been funding beneficiaries. They are schools with which I have a warm relationship. I attend them on a regular basis and have got to know their principals and the teachers. The Hilder Road State School at The Gap has been a recipient of an Investing in Our Schools grant to the tune of $55,000. I had the opportunity of meeting with the principal, Jo Bottrell and the P&C president, Dr James St John, shortly before these funds were allocated. They were absolutely thrilled. They acknowledged the Howard government for its role in the education sector and the boost to the school that this funding provided was something tremendous. It improved facilities for the kids. It is another occasion where the local community and the parents are not again asked to put their hands in their pockets.

The other school in my electorate that has been the beneficiary of the Investing in Our Schools program is the Ironside State School at Saint Lucia, where the funding of $44,551 was spent on refurbishment of school pool change rooms. These change rooms were 45 years old. Important fixtures and fittings were either non-existent, broken or missing. This is absolutely remarkable. I strongly sanction here in the parliament Queensland state governments of both colours—coalition and Labor—for the neglect of the Ironside school over the last 45 years. How can it be that, in 45 years, a school has not had any funding from the state government, particularly since the Goss and Beattie Labor governments have been in office since 1989, bar two years? They have failed in those many years to spend any dollars at all on pools.

Mr Bevis—Let me think who the minister was 20 years ago.

Mr Johnson—I hear an interjection from the member for Brisbane. If he had been paying careful attention to what I said he would have heard very clearly that, as a Liberal member of this government, I strongly condemned both sides of politics in the state arena—both coalition and Labor. Of course, we know that since 1989, the Queensland government has been of the same political flavour as the opposition, and the Labor Party claims the Queensland government is doing great things for Queensland. Of course, Queenslanders, I am sure, will put that one to rest at the next election. If he for Brisbane would just focus on some ideas and some innovative policies, he might not be sitting in misery in the opposition after the next election. I strongly suggest that he mind his own business and focus on his electorate. He only just got over the line at the last election. If he actually invested some of his time in the local community, he might not be sitting on just a two per cent margin. He might focus on his constituency in his own electorate. He might worry about his own policies and have some respect. As a nearly 25-year resident of my electorate, I am not in the business of swapping and changing positions like the members of the other side. I would rather have a 12 to 13 per cent margin any day than the two per cent margin that the member for Brisbane has, which is a very poor reflection on his local representation.
This bill is about education, our young people and investing in our schools. That is what this government, led by the Prime Minister, has done in the last decade, which is why, I hasten to remind the Labor member for Brisbane, we will be celebrating a decade in office tomorrow. I know that you remain in misery over there. No doubt at some point you will follow your colleague the member for Maribyrnong and retire gracefully, one hopes.

In the electorate of Ryan, a number of very worthy schools have also been recipients of capital grants funding. The Brookfield State School has been a tremendous recipient of this important funding. There are also two schools at The Gap that have qualified. Hilder Road State School, as I mentioned earlier, and St Peter Chanel Catholic School at The Gap have done very well from strong local representation and the funding that the Howard government has been able to provide for them.

In the centenary suburbs, the Good News Lutheran Primary School was also a beneficiary of this program. I have had the great pleasure of visiting that school frequently. It is a wonderful school. I have been very happy to support applications by schools in the Ryan electorate for funding. I know how important it is. I know how the P&Cs value these funding initiatives and how much hard work they put into the schools and the education environment that their children are part of. They certainly know the value of this funding and the enormous potential it represents for their children.

The Good News Lutheran Primary School, a non-government school, received $120,000 of capital works funding, which is a tremendous acknowledgment of what they are all about. This funding will pay for much needed facilities at the school. It will provide for a covered lunch area, walkways and, importantly, disabled access ramps. These are basic needs, but they are very important to the functioning of the school. Our children deserve all the support and safety that these investments can bring about. I pay tribute to the principal of the Good News Lutheran Primary School, Mr Loyd Fyffe. I am sure he is very pleased with the government’s support for his school and I congratulate him for his stewardship and leadership of that school.

This bill also ensures that all non-government schools catering primarily for students with social, emotional or behavioural difficulties who are at risk of leaving mainstream schooling will receive maximum general recurrent grant funding from the government. This is an important initiative. Children do not have a choice about the environment they are brought up in, which can often lead to problems. These children are vulnerable and we need to support them as much as we can. It is the children who are experiencing social, emotional and behavioural difficulties who probably are most at risk of falling through the cracks and we need to fill those cracks as quickly as possible. This bill does that very effectively.

I want to talk about tutorial vouchers as well because they are an important aspect of this bill. The innovative pilot program, the Tutorial Voucher Initiative, which was undertaken in 2005 has been a great success. Children falling below the year 3 national reading benchmark in 2003 were able to access this voucher for tutorial support worth up to $700. During the pilot, the state government of Queensland did not contact eligible parents to make them aware of the availability of this voucher. The Beattie government should hang its head in shame not only...
over its current inept management of the health system in Queensland but also over another reflection of its incompetence and maladministration. It has let down vulnerable children and their parents, allowing them to miss out on this invaluable reading assistance, which we all know could really have made a difference in the lives of young kids. Unspent funding from the pilot program will now be made available in 2006 to provide literacy assistance for students who most need extra support. Children from Queensland who were unable to participate in this pilot program will now be able to benefit from its success.

We all know that schools fall within the ambit of state governments in our constitutional structure. The states in this country are rolling in the GST. Queensland, my home state, is awash in GST revenue. I keep saying this in the parliament and I will say it again, if there are any Queenslanders listening and certainly if there are any residents of Ryan listening. Queensland is the recipient of some $7.7 billion in GST revenue. This is a source of growth funding; it is rivers of gold for the states. In question time a couple of weeks ago, the Treasurer echoed the words of the new Western Australian Premier that when the GST was brought in it was in the national interest. We know that the Queensland Premier was the first to sign on the dotted line, despite all the rhetoric and hypocrisy in condemning the GST and national taxation reform. Queensland is receiving enormous benefits from the GST, yet it does not spend it on hospitals, schools and roads. Why is the state not spending it on Moggill Road? This is a state road. Why is it not spending it on the Ironside State School? Why is this GST revenue not being allocated for the pool change rooms in Ironside State School? It is absolutely incredible.

I draw to the attention of the residents of St Lucia, Taringa and Toowong—those of you who have kids at Ironside State School—that the GST brings in revenue for the state government and it has every single dollar. Not a dollar comes to the Commonwealth. It is the responsibility of the state governments to invest that money in vital services such as health, roads and schools. I call upon the Queensland state Labor government and the Premier of Queensland to refocus. If he does, he just might get a bit of respect once again from the community which placed their faith in him. I am sure that would be something that would be very difficult for him to turn around.

During the last federal election the state governments were happy to pretend that education was not their issue, that it was a federal issue, and that it was not their responsibility. I can remember going to schools such as Toowong State School and seeing Education Union signs and placards all over the place. The reality is that we know that investment in schools is the responsibility of the state governments. Unfortunately, because they have abdicated that responsibility, we have been forced to come to their aid as much as we can. That is why the Howard Commonwealth government will not be shirking our responsibility. We will not be abdicating our commitment and responsibility to our young people. We are going to invest in education and the young people of Australia. We want to give them a very strong and secure future to give them all the opportunities of an education of high quality and excellence that we will deliver to them in the future.

All this talk about inequitable redistribution of funds that the Deputy Leader of the Labor Party referred to, the idea of coalition electorates benefiting more, is absolute nonsense. We have more members, we have more seats, on this side of the chamber, so we will be getting more of an allocation where it is needed. It is simple mathematics.
that we will be the beneficiaries of more funding. I encourage the federal Labor opposition to try to refocus and to take heed of the words in the great article in the *Australian* newspaper today by one of their frontbenchers that if they redirect their energies and focus on the Australian people they might receive some accolades for telling the story that the people of Australia want to hear. That story is about them. It is about their children’s future, their hospitals, their roads and their schools. Get away from the idea that being in this parliament is all about yourselves. I strongly commend the bill to the House. *(Time expired)*

Ms Hall (Shortland) (12.20 pm)—I think that all of us here in the House today could be forgiven for believing that this was a debate about the state government in Queensland. Members of this government constantly come into this House and criticise whichever state government represents the state that they come from. They say that education is the problem of the states, the roads are the problem of the states, health is the problem of the states—

Mr Johnson—They are. Read the Constitution.

Ms Hall—I have news for the member for Ryan. He was elected to this place as a federal member of parliament, and I believe that he needs to justify the actions of his government—a federal government that does have responsibility for education and for the way the funds are allocated. We could also be forgiven for thinking that this debate was about the federal Labor Party, the opposition, and the member for Brisbane. Once again, this debate is on an education bill, which brings out some of the failings of this government, as will my contribution to this debate.

This government has constantly let down the people of Australia when it comes to education, particularly the people I represent in this parliament. The government has an appalling record on education. The actions of the previous Minister for Education, Science and Training, who constantly politicised education and used it as a tool to buy votes, are on the record for all the voters of Australia to see at the next election. It is interesting to note that many of the grants have gone to Liberal held marginal seats. It is an absolute disgrace.

I would like to congratulate all the schools in the Shortland electorate which have been successful in securing funds through the government’s Investing in Our Schools program. There were 36 successful schools in the Shortland electorate. They put a lot of work into their grant applications and I was very happy to support them.

Under this government, a number of inequities have developed not only in education but in all areas. The government’s unfair distribution of funds to schools has benefited rich private schools at the expense of public schools. In the Shortland electorate, close to 80 per cent of all school students attend public schools. I find it very disturbing that these 80 per cent of school students in the Shortland electorate are disadvantaged by the funding model that is used by this government. It is all very well to look after your mates, it is all very well to cater to your constituency, but as a government you have a responsibility to ensure that all students—children and young adults—have equal access to education and equal opportunities for the future. Education is about creating opportunities. Education is about the future of Australia. If this government wants to continue down the track of looking after or advantaging one section of the community, we as a nation will lose.

The government has chosen a catchy subtitle for this legislation—as it always does—
and it gives a very false impression of what the legislation is about. The Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006 will move uncommitted capital infrastructure funds from government schools from 2005 to 2006 and bring forward 2008 funding to 2006. It will move unspent funding under the Tutorial Voucher Initiative scheme from 2004 to 2006 and allow for funding to be carried over or brought forward to another year for all non per capita programs. It will also provide maximum general recurrent grants for a small number of non-government schools that cater for students with emotional, social or behavioural difficulties. A number of issues in this bill impact on the quality of the education available to young people. As I said a moment ago, we are responsible for ensuring they have access to a quality education.

Applications for the government’s Investing in Our Schools program were called for at the beginning of last year. The announcement of successful applicants was finally made towards the end of last year. In true Howard government fashion, the successful schools in government held seats were announced by the sitting coalition members between three and seven days earlier than in Labor and Independent held electorates. Details of the successful applicants in Labor held seats were given to and announced by senators prior to being given to the members on this side of the House who represent those electorates.

I managed to get the details of the successful applicants in the Shortland electorate not from the government but from the website. I contacted the schools and let them know they had been successful, because the government had not even done that. It was preoccupied with pork-barrelling and getting the most benefit it could from the release of this information. The successful schools, which had put all that effort into preparing their applications—schools which suffer from the funding formula because of the way this government advantages private schools—had to wait until after the government had gone through the exercise of promoting its members before it decided they were worthy of being notified. That is not good enough and I do not think it is the way education should be.

Another example of the way the government has exploited programs for its own advantage was the school flagpoles program that was brought out by the previous minister. First of all, it was hide and seek to see if you could actually find details of the program. We spent many hours in my office trying to locate details of the program and, when we finally did, we were advised that there was a strict protocol for getting funding. Part of this strict protocol was having highlighted on the flagpole, ‘This flagpole was erected with funds received from the Howard government.’ That sign had to be on the flagpole. The other thing that was very important was the flagpole had to be commissioned or dedicated before it could come into use and a coalition member had to go to the school to ensure that happened. Senators were being pulled in from all around the state to visit schools within electorates such as Shortland and the electorate of the member for Brisbane to officiate at flagpole ceremonies. The reason I have brought this into the debate is that it really highlights how this government is not about education but about promoting itself.

Returning to the Investing in Our Schools program, it is important to note that only one ALP electorate actually figured in the top 20 electorates by amount. It is important to note that marginal government electorates figured very highly in the top 20 electorates. It is also very important to note that this program has been racked by problems. It has had one
problem after another. In recent times numerous schools—and I will not name the schools because I know the way this government works—have been contacting my office saying: ‘Where’s the money? Why haven’t we received the funding that we finally found out about from you, because the government had been very reticent in advising us that we had been successful? We’ve been contacted by those people who have quoted to do this work saying that the price has gone up because it’s been over 12 months since we submitted our application. Now the price to have this work done has increased.’ A number of schools within my electorate have a very good relationship with their local communities and some of the builders, plumbers and other tradespeople are prepared to provide the capital works at the price that they quoted. But other schools have had to come up with extra money because the government did not think through the program properly and did not make sure that the proper process was in place to ensure that once these schools had been notified of approved grants they actually received the money.

To my way of thinking, the first thing you do is put in place a process. You launch the applications, you have a closing date for the applications and then you go through a period when you decide on the successful applications. Maybe there are occasions when that can be extended. There has been quite a blow-out in this program’s extension dates and some people are still waiting to be notified whether their applications have been successful in the second round. That was supposed to be December, then it was supposed to be February and now the latest date, I believe, is April. So you have in place a process of a call for applications, closing of applications, assessing the applications and notifying successful applicants and then, finally, ensuring that the applicants actually get the money that they have been successful in obtaining through the grants program. Unfortunately, this grant process has not worked this way.

The other issue I would like to pick up on is the Tutorial Voucher Initiative scheme. The vouchers were to be used for students who were in third class in 2003. Many of these students are now in sixth class, just about ready to enter high school, and have not had their educational needs addressed. For those students in third class who failed the skills tests, showed that they would have ongoing learning difficulties and had problems in the areas of numeracy and literacy, the previous minister announced that he had the solution: ‘We will provide these vouchers to students who fail these exams and in this way we will prevent the problem being exacerbated; we will address the problem up front.’

Three years later, only 36 per cent of students who had been identified as being at risk have accessed that program. The government stands condemned for this. It is a very big black mark against the government. The member for Ryan stood up in this parliament and—surprise, surprise!—blamed the state government. It is no wonder that we on this side of the House get sick of hearing: ‘I know nothing.’ ‘It’s not my responsibility.’ ‘It’s somebody else’s fault.’ ‘No, I can’t take responsibility for that.’ ‘It’s the state government.’ ‘It’s my neighbour.’ ‘It’s got to be the local council.’ If that is an example of good government, I strongly suggest that the members on the other side of this House take a very close look at what they have been elected to do. They have not been elected to blame somebody else. They have been elected to this parliament to deliver.

I issue a challenge to each and every one of those members to actually deliver—to
make sure that students in their electorates who have been identified as being at risk actually get the assistance they need. This system was flawed from the start. Once again, it was a bright idea of the minister, who thought, ‘This sounds like something that will be effective,’ but it was not thought through or looked at properly. It took until 2005 before any of the students identified as being at risk could access this scheme. Now here we are in 2006 extending the scheme.

I have no problem with the concept of rolling over money and being a little flexible about the time it takes for funds to be spent, provided that those funds reach the people that should receive them. This government has a record of not being accountable for its actions, and that is my concern. We need improved accountability for the Tutorial Voucher Initiative program. We also need to make the government much more accountable and the process of allocating capital grants to schools in the Investing in Our Schools program much more open. The government has to get real about things. It has to act in the interests of the students, and it needs to move away from its pork-barrelling approach to education. Education is about Australia’s future; it is not about electing government members to marginal seats. (Time expired)

Mrs HULL (Riverina) (12.40 pm)—It is always a pleasure to follow the exciting, motivating and riveting addresses of the member for Shortland, because she is always so enthusiastic and excited about all of these great initiatives that are being delivered by the Howard-Vaile government. It is always very exciting to follow her because you know that, somewhere along the line, people like to see that their glass is half full rather than half empty. You can always rest assured that the former speaker’s glass is generally half empty when we talk about any initiatives that have been delivered by this government.

I rise to speak in support of the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006. This bill is incredibly important to ensure that schools such as those in my electorate of Riverina can access funding more quickly to ensure that infrastructure needs are met. The Investing in Our Schools program, which was part of the original legislation, has been very well received, with 8,000 applications received in 2005. Last year, 4,034 round 1 projects were approved for our schools. This program is part of the Australian government’s commitment to providing $1 billion for capital infrastructure grants for government and non-government schools from 2005 to 2008, bringing the total funding for capital grants to $2.7 billion over the three-year period. The Investing in Our Schools program provides grants totalling $700 million for government schools and $300 million for non-government schools.

According to the member for Jagajaga’s press release, the Riverina was the third-highest recipient, of which I am very proud. These grants of $1.4 million for over 40 schools were announced in October. This funding allows the wider school communities to make decisions about infrastructure changes which are imperative in ensuring that students are educated in the best environment possible. Some of these projects are so urgent many schools are already concerned about the time they will have to deliver some of these enormously important infrastructure grants. There were so many applications lodged that it has taken longer than was anticipated to deliver the funds advice. There is a reason why so many program applications have been lodged. The member for Shortland has said that it is state bashing,
but the reason there are so many applications is simply state neglect.

Mr Hartsuyker—It is state neglect.

Mrs Hull—The member for Cowper is exactly right. With this amendment, it is hoped that the funds will flow and become available far more quickly. The funding applications received from the Riverina electorate included requests for airconditioning, which shows there are still small rural schools trying to cope in extreme summer weather conditions without effective cooling. The majority of them, which I have just listed and highlighted, are for shade structure.

In December and February the temperatures in my electorate reach well over 45 degrees, and in some of these areas it is 45 to 48 degrees day after day. There is no airconditioning in public schools and no shade in public schools. What we needed to do was assist these P&Cs, the parents of the children who attend these schools, to feel more confident in sending their children off to school, knowing that they can learn within a cooler and more pleasant environment and that they have a place in the shade to play. The projects included other things such as playground equipment and sporting infrastructure, and water infrastructure for ovals so that children can have and compete in sports and so they can have a physical culture environment in their schools.

This funding has been vital in securing a number of smaller projects that schools desperately needed but which the state government has never seen as a priority. A part of our Investing in Our Schools funding in the Riverina electorate was $300,000 for the Wagga Wagga Christian College. I have just heard the member for Shortland say that ‘these rich private schools’ are the recipients of this funding. Can I say that the Wagga Wagga Christian College is not a rich private school. In fact, this school was built by the hands of the parents and students, from the ground up. I have been there. I have painted. I have done roofing. I have put up guttering. These kids and these families are not from rich backgrounds. They are probably some of the most underprivileged people within the City of Wagga Wagga, yet their commitment to ensuring that the education of their children is in the form they want has seen them deliver this infrastructure and this fabulous school with this fabulous ethos, yet they are supposedly a ‘rich private school’. Well, hello! No, I don’t think so!

This project at Christian College included the refurbishment of the library and the installation of equipment and sun screens on our very hot west-facing walls. In addition to these projects, dust extraction equipment is to be installed in the school’s workshop and the existing kiln room is to be refurbished in order to have better health environments for the children attending the school so that they are able to enter into some of these areas and move on to the extraordinarily beneficial trades and services areas.

The Investing in Our Schools funding is there for government and non-government schools, but it is just one commitment that this government has made in providing the children of today, our adults of tomorrow, with the best education possible. In the Investing in Our Schools projects we received community funding for these P&Cs that strive to achieve. For parents, their child’s wellbeing is important, and they commit so much energy and so much time. I know that my own daughter-in-law spends so much time at my grandsons’ schools, and they are public schools, assisting with the P&C, running the tuckshop and doing the fetes, the sewing and the cooking—doing everything that she can. It is almost a full-time job for her to invest in her children’s education in the state school. The wellbeing of her chil-
Children is important, as the wellbeing of every child is important, and we should be ensuring that we have the best facilities within the school environments.

Through working bees and various other commitments in helping the teaching staff, these parents and friends make sure the environment of these institutions is the best that it can possibly be. Schools in the bush are often the heart of the town or village they are in. It is important to keep this partnership between the government and these communities in order to build relationships and achieve the aims and objectives for the schools. Eurongilly Public School, one in a list of schools, received $50,000 for playground equipment. With just eight pupils at that school, it is the heart of the very close Eurongilly community. For them to raise $50,000 to put in some playground equipment would have been very difficult. They simply do not have the critical mass to draw from on fundraisers, so for eight students this has been an absolute godsend.

There were recent bushfires in the surrounding areas, and hundreds of parents and friends in the wider community, right across the electorate, all showed their support for the school just after the blaze ripped through in checking that all the buildings were still standing. They own this whole procedure; they own this school. Their heart and soul is in this school. They were terrified that, if the school was not still standing, they would lose their school. Everyone came from the districts all around to make sure that that school was left standing so that it could continue to be the backbone of the community. They received a $50,000 grant for their playground equipment.

I am not quite sure of the date of the press release by the member for Jagajaga—I think it was on 27 February. I received a call from my local radio station, 2WG, advising me of the accusations of the Deputy Leader of the Opposition, the shadow minister for education and the member for Jagajaga, Jenny Macklin. Her press release accuses the coalition of rorting the Investing in Our Schools program by delivering more funding into electorates held by The Nationals and, moreover, as the member for Shortland said, into these marginal seat electorates.

I was absolutely staggered by her complete lack of knowledge and understanding as to why she named my electorate in this press release. She named my electorate as being third on the list of electorates having received the highest amount of funding. I was staggered at her lack of knowledge and understanding as to why my electorate of Riverina needs so much funding. My electorate of Riverina needs funding because the New South Wales state Labor government has absolutely starved the conservative held electorates of funding. Do not make accusations from the opposition side of the House about funding going to federally held coalition seats. Make accusations about the state government, which is starving my conservative held electorate of funds for my schools. I was absolutely staggered when I saw this press release come out with these accusations.

It is an absolute disgrace, and shame on the so-called Country Labor in New South Wales. I call it a so-called Country Labor because—as can be witnessed by every Hansard from the New South Wales state parliament—it is a Country Labor that has never voted against their city Labor counterparts. They have never voted any differently, even when the policy and the decision makers discriminate against the electorates that their MLCs—such as Country Labor MLC Tony Catanzariti in the Riverina—represent. He does not even have an office in the Riverina. Where does he have his office? In Sydney. They do not vote against anything.
I can stand here and say categorically that Country Labor is a sham and a farce. I would say that Country Labor were different from their city Labor counterparts if I could see one shred of evidence that they were going to vote against their city counterparts on policies and decisions that impact on country people—and that impact is considerable and happens time after time.

The member for Jagajaga dares to complain about the amount of money that the coalition government gave to my electorate of Riverina—my electorate; the electorate of a National Party member—in order to prop up and provide assistance to the many thousands of mums and dads in P&Cs there. That was to assist them because they have been discriminated against. I find it an absolute disgrace that the member for Jagajaga should put out such a press release and not recognise that conservative held seats in the states have been starved of funds in the education sector. That is the reason the federal government has had to come to the aid of these schools.

The local Country Labor representative has failed the people whom I represent in my conservative held seat of the Riverina and surrounding district miserably, and he continues to fail them. He generally takes all of the credit for any announcements but no responsibility for any decisions that impact on any of the areas around the Riverina. He goes into hiding into his office in Sydney or cannot be found at all.

I am very proud—extraordinarily proud—to have seen the very good applications that were put in by all of those schools across my electorate. I sent out a round of funding applications, directions and guidelines to every school in my electorate. Every single school was encouraged. They got application forms. I did not leave anything to chance, and I am sure no coalition member did, either. We knew that our schools needed our support. We were appreciative of the minister’s attention to ensuring that we could get our schools these fine things that they were lacking. We knew that the schools were not able to raise the money to deliver them, so we left nothing to chance. We sent them out the application forms, we advised them that they should be filling them in and we gave them the guidelines. We were diligent. And of course their applications were good.

Every application from the Riverina and every single dollar that I have ever been granted has integrity. Every single dollar that has come into the Riverina stacks up. It all has integrity. I am appalled at the fact that people have come into this House and accused the people whom I represent of being pork-barrelled. The public state schools in my electorate are all significantly challenged in many areas. If the member for Jagajaga wants to call water tanks, playground shade structures, airconditioning in areas of 45-degree heat and playground equipment pork-barrelling, I say to the coalition, ‘Come on down and pork-barrel my electorate every day of the week.’

This money is going to the people who deserve it and need it, and to people who have all demonstrated integrity in their application forms and been judged on that integrity. It is absolutely appalling that the integrity of the parents in my electorate, the P&Cs, the children, the headmasters and the teachers of our great school system is being questioned by the member for Jagajaga.

As I said, the Investing in Our Schools program has been an exciting initiative that has enhanced the education of many of the children whom I represent. I am pretty excited about having been a part of the delivery process. Rather than be ashamed, as the member for Jagajaga thought I should be, of my positioning in this little table—
Mr Hartsuyker—It is a badge of honour.

Mrs HULL—I do wear it as a badge of honour. This is The Nationals delivering: this is me as a Nationals member delivering in my electorate through coalition policy and an exciting and motivated former minister for education, Brendan Nelson. That has been carried on by the equally exciting and motivated education minister, Ms Julie Bishop. I am very pleased to have been a part of the delivery process. I am also pleased that when on 25 October I announced $1.4 million for Riverina schools—which should have been the responsibility of the state—I was announcing something that had integrity and something that was desperately needed in my electorate.

Late last year we had another delivery in one of my state schools, and it was absolutely fabulous. I am patron of Kooringal High School in Wagga Wagga, which was granted $1.4 million in capital grants funding to construct a gymnasium and covered area with disabled access. The government had previously announced $1.87 million for this project. The total money that the minister has been able to provide to Kooringal High School is $3.27 million, under the capital grants program. This is further evidence of the dedication by the coalition government, now in its 10th year, its 10th anniversary, to continue to provide for schools. The government is continuing to do what the member for Shortland insisted we should be doing—delivering. (Time expired)

Mr SNOWDON (Lingiari) (1.00 pm)—That was an entertaining little address by our friend from the Riverina. I am not sure how accurate it was, but she was certainly entertaining. I am sure she will get full marks for marketing at her next assessment, whenever that might be. As we know, marketing exercises are not always truthful—

Mrs Hull—Oh!

Mr SNOWDON—I am not suggesting you weren’t; I am just making a general comment about marketing. We know how untruthful many of the government’s own public marketing exercises have been. Nevertheless, I understand the member’s commitment to her communities, and her proud boasts of being able to get large slabs of government pork—I mean money—for her electorate. I am sure her communities are most grateful to her because of that.

There are a number of issues I want to address in my contribution to this important discussion on the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006. I note the words of the amendment moved by the member for Jagajaga, condemning the government for:

(a) failing to deliver urgently-needed capital funds and literacy support in time for schools and students to achieve the benefits of those funds;

(b) failing to protect the integrity and probity of its program for tutorial literacy vouchers, especially in the appointment of brokers for the delivery of tutorial assistance in some states;

(c) approving capital funding under its ‘Investing in our schools’ program in an unfair and unequal way between schools and regions, and

(d) failing adequately to take into account the relative educational and financial needs of schools in the allocation of capital funding under the ‘Investing in our schools’ program;

and calling on the government to:

(a) ensure that all programs are administered in ways that deliver maximum educational benefits for students;

(b) take steps to assure the educational integrity and probity of its tutorial assistance for students with literacy needs;
(c) direct some of the unspent funds for tutorial assistance for students with literacy needs for use by schools to develop appropriate programs for their students, in consultation with parents; and for the professional development of teachers to improve their literacy teaching skills; and

(d) support improved accountability provisions for funding under the capital grants and tutorial assistance programs”.

Let me say at the outset that these programs are important. While the government members will decry the concerns which have been expressed by the member for Jagajaga and other members on this side of the House, it is important to understand that members on this side of the House are highly motivated to achieve the best possible educational outcomes for Australian students, regardless of who they are, regardless of their family circumstances and regardless of where they live. I think we share that objective across the chamber. Our reluctance to endorse what the government is doing whilst we are supporting the bill is because of the way in which these funds have been made available and the government’s inability to get the funds out in a timely manner.

My concern is that we need to spend more money on these types of programs, particularly for the people in my electorate of Lingiari. You would know, Mr Deputy Speaker Baressi—and it bears repeating for the benefit of those people who might be listening to this debate—that the seat of Lingiari encompasses all of the Northern Territory except Darwin and Palmerston, and includes Christmas Island and the Cocos Islands. Arguably, it represents the most disadvantaged of all Australians. Around 40 per cent of the constituents of Lingiari are Indigenous Australians. They live mostly in small, remote and isolated communities, far away from metropolitan centres and far away from services and, as I will explain later, they have poor educational outcomes. These poor educational outcomes need to be addressed. These programs are one way of addressing those poor educational outcomes.

It is important to appreciate the fundamentals of living in remote communities and the disadvantages that such people suffer. In the Northern Territory that disadvantage has been compounded by in excess of 25 years of neglect by previous governments before the ALP was elected to the Northern Territory government in 2001. Successive conservative governments in the Northern Territory took concrete decisions not to spend on educational infrastructure in an appropriate way for remote communities. As a result, the educational attainment level for Indigenous Australians who live in those places is very low—the lowest in Australia. The capital infrastructure in many communities until recently has been very poor—indeed, very run down and in need of great repair. In some places there is a need to relocate the educational facilities. In many places up until the last election cycle in the Northern Territory not one Aboriginal student had graduated out of their home community to tertiary entrance—not one. That is an absolute indictment of successive CLP—Country Liberal Party—administrations in the Northern Territory.

Unfortunately, that situation is also an indictment of the federal parliament and successive governments, both Labor and Liberal. They were not prepared or were not able to intervene in such a way as to force a recalcitrant Northern Territory government to spend funds in an appropriate way—funds which were made available to it for Indigenous education purposes.

It is worth pointing out that, in that context, the Northern Territory government is noted for having off in excess of 50 per cent
of moneys allocated for Indigenous education by the Commonwealth—hiving off 50 per cent and more for its own purposes. As a result, it is no wonder that many schools were not receiving the full benefit of moneys made available by this parliament, either in the years when the Labor government was in power here in Canberra or subsequently when the CLP was in power.

That all changed, thankfully, when the CLP was booted out by the people of the Northern Territory in 2001 and a Labor administration was elected to govern the Northern Territory. Things were normalised. More moneys which were supposedly for direction by the Commonwealth into Aboriginal education were actually meeting the people’s needs on the ground. That is not to say that things are perfect. Recent work done at the community of Wadeye demonstrates very clearly that, in terms of funding, Indigenous communities on a per capita basis are significantly underresourced compared with their counterparts, whether Indigenous or not, who live in metropolitan centres of the Northern Territory or, indeed, elsewhere in Australia.

That is a real problem. It becomes an increasing problem when you understand how Indigenous students—students who live in remote and very remote communities—fare when we address the issue of benchmarking and performance measures. I have some real issues to do with benchmarking. I believe that the way the benchmarking levels are set and the way in which they are tested are inappropriate. Nevertheless, they are tested. Benchmarking has been agreed by the state and territory government ministers, along with the federal government, which has imposed its will. People will remember the debates in this chamber on Dr Nelson’s remarks about this issue of national benchmarking when he was the minister for education.

What do we know about benchmarking? Let me begin with non-Indigenous communities. For non-Indigenous students in 2004 and 2005 in the Northern Territory, the figures for those who achieved national reading benchmarks were 87 per cent for year 3 and 91 per cent for year 5. By comparison, the achievement rates for remote Indigenous students—those who achieved the national reading benchmark—in 2004 and 2005 were 20 per cent for year 3 and 21 per cent for year 5. If we go to the maths benchmarks—the national numeracy benchmarks—the figures for 2004-05 for non-Indigenous students were 97 per cent for year 3 and 89 per cent for year 5. They are commendable results. If we look at remote Indigenous students, the figures are 48 per cent for year 3 and 16 per cent for year 5.

Whilst I qualify my remarks by saying that I have real concerns about the approach to benchmarking that has been adopted, nevertheless it has been adopted. Those figures demonstrate the parlous state of Indigenous education in remote parts of the Northern Territory in terms of achieving those educational benchmarks.

Thankfully, the Northern Territory is starting to invest significant amounts of money in trying to address and remedy these shortfalls, but it is worth referring to the Bills Digest for this legislation. It refers to the issue of achievement levels and what that means in terms of life experience and life opportunity. It refers to a recent Access Economics study saying:

... early school leavers receive lower wages than their more skilled counterparts, are less likely to participate in the labour force, and are much more likely to experience periods of unemployment …

The Bills Digest then refers to findings of a Dusseldorp Skills Forum survey saying:

... the proportion of young people considered ‘at risk’ has remained unchanged for two decades and reaffirms the plight of early school leavers ...
The Dusseldorp Skills Forum is further quoted as saying:

About two-fifths of young people who left school after completing Year 10 (45 percent) or Year 11 (40 percent) were not studying and either unemployed, in parttime work or not in the labour force in May 2004. The corresponding percentage in these activities for young people who completed Year 12 (23 percent) is about half that of other school leavers.

The point of raising that in this context is this. If you understand that there are no high school opportunities for young people who live in remote communities and who are already behind the eight ball when it comes to the literacy and numeracy benchmarks that have been set across the country, you understand that in most instances they have no opportunity to even get to year 10, let alone year 12. As a consequence of that, we end up with a whole lot of problems which become important to this community. That means that young people who might otherwise have real lifetime opportunities because they have a good educational foundation and skills that they have been able to acquire during their schooling are not able to use them to obtain a job directly in the labour market, access further training or skill development at a TAFE or similar institution, perhaps do an apprenticeship, or go on to year 12 and perhaps get tertiary entrance. That is important and they are the goals we want all Australians to achieve.

The people I am referring to have next to no hope of achieving that objective. Because they do not have the skills necessary to get jobs in the broader labour market, they are condemned to a life of great frustration and uncertainty, which inevitably means that they will be unemployed for long periods of time and, as a direct result of that, will end up in a severe poverty trap. In disadvantaged remote communities, because of the lack of infrastructure not only in education but also in housing and health, people in a severe poverty trap have major difficulties in meeting the high standards set by government for the objectives they should be achieving.

We hear a great deal of discussion about passive welfare and the need to engage people in the labour market, to have jobs—something which this government boasts about. Let me say this: the life opportunities of the people I am referring to are being frustrated and undermined by the failure of successive governments to provide the resources necessary to equip and provide them with access to appropriate educational and training opportunities. If they cannot get access to those appropriate educational and training opportunities, they are going to be a long-term drain on the Australian taxpayer’s pocket. And when they are a long-term drain on the Australian taxpayer’s pocket, they will inevitably be blamed. They will be accused of not making a contribution to the community and they will be insulted, in the way in which they have been continually over 12 or 18 months, by those who abuse them for being on welfare.

Let us understand this: if we want to get people off welfare and give them those opportunities that we all expect to have for our children, then what we have to do is invest—invest significant taxpayers’ resources into making sure that the foundation skills that all people require to get on in life are provided to all Australians, regardless of who they are and where they live. That is the challenge.

Whilst the intention of these programs is well placed, unfortunately they have not proven to be as successful as they ought to have been. It is a matter of some concern that, in the context of these programs, education providers in the Northern Territory have not been properly consulted and the experts on the ground—the Northern Territory De-
partment of Employment, Education and Training—have not been listened to.

I wrote to all schools in my electorate at the end of last year about two matters: firstly, encouraging schools to put in submissions to the Investing in Our Schools program and, secondly, seeking information and feedback about changes to direct funding of Indigenous education assistance.

I had already spoken in the House on the issue of Indigenous education assistance on several occasions and condemned the government for its lack of consultation with key stakeholders, a stance which was shared by many submissions to a subsequent Senate inquiry into targeted assistance for Indigenous education.

In 2004, the former Minister for Education, Science and Training, Dr Nelson, made announcements about accelerating educational outcomes, especially in the area of Indigenous education. I am most concerned that those schools and students whom I referred to earlier—and there are many thousands of students who live in these remote communities in the electorate of Lingiari—had to wait so long and complete so much paperwork to access funding for capital grants.

The former minister for education wrote to me in December 2004 asking me to keep schools informed about the Investing in Our Schools program. I received another letter in February 2005 saying that by mid-2005 the first round of grants would be allocated. That was the first round, for grants less than $50,000. Unfortunately, only now are schools finding out about the second round of funding—for grants greater than $50,000.

I received another letter, from the Parliamentary Secretary to the Minister for Education, Science and Training, on 15 February 2006, announcing $2.5 million worth of grants to schools in the Northern Territory. Interestingly, that correspondence states that, in 2005, the allocation of funds for the NT was $1.77 million and that the extra funding was from bringing forward some of the 2006 program funds to help deliver more projects now.

If funds had been overcommitted in the Territory for 2005, and this bill is to move uncommitted capital infrastructure funding from 2005 to 2006, as well as to bring forward 2008 funding to 2006, in what states were funds undercommitted in 2005 or uncommitted in 2005? What areas have been overallocated? Are they now to miss out for the next three years?

What message is this sending to principals and teachers and, indeed, parents in these remote communities? If I were a principal, the clear message would be to apply right now for any funds that may be available, as next year there may not be any. If anyone thinks this is any way to manage infrastructure equitably and fairly then I disagree.

I refer to the tutorial voucher initiative—I have already referred to the poor outcomes in literacy and numeracy—and I make this observation: not one voucher has been taken up in the Northern Territory in 2005. The government’s program for using contracted brokers is totally inappropriate in Indigenous communities and now, I understand, the Commonwealth has reluctantly and belatedly come to an arrangement with the Northern Territory government to provide a service. This could and should have been achieved 12 months ago. (Time expired)

Mr HARTSUYKER (Cowper) (1.21 pm)—I welcome the opportunity to speak on the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006 and I welcome the effect that it will have in supporting our teachers and our schools.
I would also like to commend the member for Riverina for her fine contribution to this debate, which was in stark contrast to the endless whingeing of the member for Jagajaga. This opposition is drowning in its own negativity. They have no plans, no ideas and no policies to build a better Australia. It is the coalition that has a vision for this nation, building a stronger Australia through measures such as quality education programs like this one—the $1 billion Investing in Our Schools program. In this debate, the opposition shadow minister has again shown the policy void that is the Australian Labor Party with regard to education. It is all too easy just to whinge. It was a contribution all too typical of the member for Jagajaga when she speaks in this place.

I must say thankfully that not all members of the Australian Labor Party share the same intellectual void with regard to education as the member for Jagajaga. As chair of the Standing Committee on Education and Vocational Training, I am privileged to have the Member for Port Adelaide as my deputy chair, a member who is passionate about education and who knows more about education than the member for Jagajaga ever will.

I would also like to commend other Labor members for their commitment to the work of the committee—members with a positive contribution to make to education as opposed to the feeble efforts we regularly see from the member for Jagajaga. This member has called for greater cooperation from the states. I would like to point out in this House that the very reason for this program is failure by those very states to adequately resource schools. The former Minister for Education Science and Training, Dr Brendan Nelson, produced an analysis that details the amount by which the states have underfunded their schools compared to the Commonwealth. In his press release of 17 June 2005 the former education minister detailed that, if the states had increased their expenditure at the same rate as the Commonwealth, there would have been at least $882 million extra available to state schools. In fact, if the states had matched the federal contribution, the works being done by this program could have been funded by the states.

So rather than carping on about greater cooperation with the states, I call on the member for Jagajaga to do, for once, something positive: to get on the phone to the state Labor premiers and get them to match the increase in expenditure offered by the Commonwealth. I would like her to get on the phone and perhaps talk to Mr Morris Iemma and ask him to increase the New South Wales contribution to the same level. New South Wales increased its expenditure for its schools by 4.3 per cent. How much did the Commonwealth increase its contribution? By 7.8 per cent. What is the loss to the schools of New South Wales with Morris Iemma failing to match the increase in the Commonwealth funding? Not $100 million, not $200 million, but $241 million.

While the member for Jagajaga is on the phone, she can make another call. She could perhaps call Premier Steve Bracks and ask him to match the Commonwealth’s increase. By how much did the Commonwealth increase its expenditure to schools in Victoria? Not seven per cent, not eight per cent, but 8.8 per cent compared to a paltry state increase in Victoria of 4.3 per cent. How much is that costing Victorian schools? Some $217 million could build shade structures; $217 million could provide airconditioning; $217 million could be put to a host of other uses. So rather than the member for Jagajaga just whingeing and moaning, as is her habit, I would like her to get on the phone and do something for the schools of Australia by encouraging those state premiers to match
the contributions of the Commonwealth. I think that is a very important fact.

Another factor in the success of this program has been local communities deciding their own priorities and not centralised bureaucracies such as Macquarie Street, Sydney. As I said, the member for Jagajaga called for cooperation from the states, but it is those very states that are pursuing a centralised decision-making policy that is not providing for those local priorities. It is certainly providing more for metropolitan schools than for schools in regional and rural areas. The member for Jagajaga raises the issue of pork-barrelling. She claims that, on average, National Party seats received 246 per cent more than Labor electorates. I certainly make no apologies for achieving for my electorate. Education outcomes are vital, and I will certainly be fighting to ensure that good educational outcomes continue.

I would like to place on record that the Investing in Our Schools program is assessed on merit. I will say that again: it is a program assessed on merit. All of the projects are funded on the recommendations of independent, state based advisory panels. These panels comprised of parent and principal representatives, who I believe have been acting very properly. The question is: is the member for Jagajaga saying that these bodies are acting corruptly? I would like her to come into the House and clear this up and say that she believes either they are acting corruptly or that the state based assessment panels have acted properly. I believe they have acted properly, and if that is the case then her arguments about pork-barrelling have no substance whatsoever. It is vital that she clears that up.

A more likely cause for the discrepancy between regional and rural schools and those held by the state members is the fact that regional and rural schools and many schools in coalition areas have been neglected by state Labor governments around the country. That is why the need is so great: not pork-barrelling under this program, not corruption by the advisory panels, but merely the fact that state Labor neglects regional and rural Australia and that state Labor has also been neglecting schools in coalition held areas.

Let me now turn to the education issues that are at the heart of this bill. There can be few careers today as rewarding or as challenging as teaching. Not only do we ask young people with little experience of life and work, and possibly with no experience of children of their own, to take charge of a classroom of young people and start shaping their lives, we also ask older, more experienced teachers to bridge the ever-widening generation gap at a time when technological and other changes are taking place at a rate that we could scarcely imagine 10 or 15 years ago. Email, text messaging, camera phones, video on demand, iPods—all of these things are part of our children’s lives. They affect the way they communicate, how they absorb information and how they see the world. Not only do teachers have to take this into account, they also have to try to equip themselves with computer skills that many pupils take for granted. I could imagine that for any baby boomer teacher it is no mean feat to keep up with a bright class of nine-year-olds who have been using the keyboard since kindergarten and whose minds are set more in the idiom of the computer screen than the printed page, and whose curiosity and interest is barely satisfied by all the World Wide Web has to offer.

The education and vocational standing committee, which I chair, is currently conducting an inquiry into teacher training. The government have an obligation to ensure that we not only provide these young people coming into the profession with the tools they need to meet their demanding role but
also help them develop once they have entered the classroom. There are constantly changing bodies of knowledge in a range of subjects, not just computing, which pose a challenge for professional learning.

Whilst the laws of physics and chemistry may remain unchanged, new fields such as nanotechnology were not even thought of when many of our currently serving teachers first trained. The need to deliver ongoing professional learning is just one of the challenges which faces our education system and poses particular problems in regional and rural areas. Research conclusively shows that teacher quality is a major determinant of educational outcomes, and quality professional learning is vital to developing teacher quality. We have to ensure that we make realistic demands on our teachers. Our curricula have become too prescriptive and wide ranging. The information explosion has meant that the problem has been not what to include in our curricula but in fact what to leave out.

There is an overwhelming trend in our society to expect more and more of our social problems to be solved by our school system. Sadly for many children, the only orderly and secure environment they know is their school. Somehow in six hours a day our teachers are being expected to compensate for the failings of some parents. A stable home life which teaches courtesy, punctuality, good behaviour and a commitment to learning is just a dream for some children. If teachers have to tackle this failing before doing their own job then clearly we are asking a great deal. One cannot but deplore this state of affairs. However, we cannot ignore this reality. It brings into clear focus the fact that an improved school environment will have a positive impact on many needy children as well as on the broader school population. Helping to create better schools is the very focus of this bill.

On the broader topic of schools and communities, I would like to take this opportunity to commend the staff and students of Bowraville Central School in my electorate for their success receiving at the National Awards for Quality Schooling an award for changing the school culture from one centred on welfare to one centred on learning. The school has successfully addressed the issues of absenteeism, high suspension and dropout rates, low self-esteem and low literacy and numeracy levels through a range of measures in a project known as the community alliance project. Community support and involvement has increased, morale has improved and pupils are performing better academically, socially and personally. Schools like Bowraville are doing a fine job for society as a whole and they deserve our support. I am glad that they have received national recognition for their efforts.

As I said earlier, I very much welcome this amendment bill, in particular the accelerated support that its passage will bring to the Investment in Our Schools program. This is a simple and effective scheme that provides tangible benefits right in the heart of our communities, and I am glad that the merits of this scheme are being recognised. I note that the Minister for Education, Science and Training told this House on 16 February about demand for the grants the program provides and that there had been more than 8,000 applications from state government schools last year. As a result, this bill will bring forward some $186 million from 2008 to 2006.

When the first round of grants was announced in October last year, I visited many of the schools in my electorate and the staff were quick to point out the benefits from their point of view. Foremost was the fact that the choice of project is left to actual schools themselves. There is local decision making by local schools to solve local prob-
lems. Parents, students and staff are getting involved and making the right decisions for their school. They are the best people to identify the needs in their particular school. They are the best people to decide whether they need shade areas or airconditioning or playground equipment, not a centralised bureaucracy back in Macquarie Street, Sydney, and not some person hundreds—and in many cases thousands—of kilometres from the school involved. A key to this project is divestiture of decision making to the local communities. There would be very little use in having a prescriptive program for, say, shade areas. We would probably see all these cloudy towns turning up with their regulation allocation of shade areas. The local element in the decision making is a vital part of the success of the project.

These projects are not hugely expensive, but they are often beyond the means of many local schools—that is, schools that do not have the ability to raise the funds they need for these small projects. With some assistance from the federal government they are able to get much needed improvements that will be appreciated by the staff, by the pupils and by the wider school community. I have visited many of the schools in my electorate and spoken to principals, teachers and pupils. They were eager to show me how the funding was going to be spent, where the shade structures were going to be erected and where the new playground equipment was going to go. It is great to see local communities taking ownership of improvements in their schools and not being told by Macquarie Street that they need improvement X or improvement Y. Local decision making is the key to success.

In my electorate of Cowper more than 30 schools received some $1.3 million in the last round of grants. It is a great program for small communities and larger communities. We have had schools in Coffs Harbour, Kinchela, Bellimbopinni, Bonville, Smithtown and Woolgoolga, to name a few, receiving funding under these projects. Also, three non-government schools received support under the program. From talking to school principals, I know they support this program. From talking to school principals, I know they would not support the whingeing and whining of the member for Jagajaga. They would probably prefer her to get on the phone to Steve Bracks and Morris Iemma and get them to increase their funding to state schools to match the Commonwealth’s funding.

I mentioned earlier the role of the parents. Schools cannot and should not stand alone. They should be an integral part of the community, and I welcome the part that parents have played in the decision-making process and the contributions that the P&C associations have made in providing funding to go with the Commonwealth funding to complete many of the projects. I am sure those parents would be the first to agree that a school is more than bricks, mortar and sunshades. A school is all about strong leadership, dedicated staff and support from a strong school community. As I have said, the environment is important but what is crucial is the commitment of all of the partners in the learning process. Having cooperation between the local community and the federal government to deliver outcomes is very much part of building that.

In turning to the detail of the bill, I support the proposal to carry over unspent funds from the Investing in Our Schools program from 2005 to 2006 and to bring forward that funding I mentioned earlier from 2008 to 2006. I would like to commend the Tutorial Voucher Initiative, which provides $700 in vouchers to assist children who have failed to reach the appropriate benchmarks in year 3. I think it is important that we get in early and assist these young people to have better
education outcomes. If they are falling behind in year 3, they cannot possibly hope to keep up in later years. Whatever criticism the member for Jagajaga may level at this scheme, it is focused on improving the outcomes for those young children, making it a better experience to go to school so they do not feel ostracised by not being able to keep up and giving them the confidence to be part of the school community and further their education. Unfortunately, the take-up rate has been low but the rollover of these funds will assist to further enhance educational outcomes.

I also welcome the extension of full Commonwealth recurrent funding to those special schools catering for students with social, emotional and behavioural problems who are likely to leave school early. This is an instance where a modest and timely expenditure can make a big difference not just to the life of an individual but also to the support, financial and otherwise, that society may have to provide to a particular individual. Evidence suggests that early school leavers earn less, are more likely to be unemployed and are more likely to experience periods of prolonged unemployment. Assistance at an early stage can help prevent this. I commend the proposals to continue that expenditure. It is a very worthwhile program.

Mr BEVIS (Brisbane) (1.38 pm)—I have listened to the last two hours of this debate on the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006 and feel somewhat compelled to make a few comments. A good deal of the debate, particularly from government members, has portrayed this as some state versus Commonwealth debate. We even had the quite absurd proposition advanced by the member for Ryan that some deficiency that he identified in a school in his electorate was the result of 45 years of neglect by what he said was the state Labor government. Obviously, it is an enthusiasm uninhibited by either knowledge or intelligence on the part of the member for Ryan. The simple fact is, of course, that for the bulk of the last 45 years there was a conservative government in Queensland.

But the reason I really wanted to enter this debate was not to make that point. It was to say that this is not a debate about state versus Commonwealth; this is a debate about the needs of our schools and the children in our
schools. That is what this is a debate about. The Commonwealth and states have for the last 50 years had a shared responsibility in discharging our community obligations to young people in education and to the not-so-young in education.

Before the GST Commonwealth governments provided large amounts of money to the states, albeit through different vehicles. The GST just happens to be a current manifestation. It gets portrayed in this debate as though it is a panacea from which all problems are resolved. No-one believes that to be the case. It would raise the standard of the debate in this place if government members stopped trotting out that argument about GST funding of states every time an issue came before this parliament. It is the panacea to fix all school problems, all road problems, all health problems, all policing problems. All of us in this place know that is a lie. It is not. It just economically does not add up, I am sorry. So the sooner we start to elevate the debate in this place a little bit more seriously, I think the sooner the public will appreciate all of us a little more.

The simple fact is that funding of education in this country has been inadequate. We have a number of academics and scientists here in the parliament today as they conduct their annual Science Meets Parliament activities. Those of us who meet with those visiting researchers and academics—and that is most of us, on both sides of the chamber—know from those private meetings, when we discuss this with them, that there is a shortage of investment in this country in education, training and research. That is not a new thing, but it is a real problem.

We have at the moment a resources boom. With the resources boom we still have a balance of payments problem that is the worst recorded in our history. If we cannot trade profitably when we have a resources boom at our feet, what prospect is there when that falls away? What do you do about that? You invest in the skills of your people. You invest in education and training and you invest in research. We have not, as a nation, done that. There has been a disinvestment. We rate poorly on the global comparison table when it comes to government funding of education, of tertiary education and of research and development. That is an inescapable fact.

This bill provides some money for education, and that is welcome. I have stated in this parliament and outside the very strong belief I have that governments should fund education, research and training at much higher levels than we have in the past. I think it is essential for the future wellbeing of our nation, for our children and our grandchildren, that we do that. That has to be done. You cannot invest too much in education. You cannot have a population that is too well educated. It is easy to waste money. You can put a little bit of money into education and waste all of it. But, properly invested, you cannot spend too much money on education and training. So to the extent that this bill provides some funds for education, I welcome it.

What I do not welcome is the way in which these funds are administered. They lack transparency. They lack any identifiable process to show that the funds are going where they are needed, that they are going to achieve some overall benefit for the educational standards of Australians. Yes, there are many laudable, useful projects that these funds go to, as is the case with pretty well any other program—not just in education but elsewhere.

But the simple fact is that these funds are allocated in secret, behind closed doors. It is little wonder that members in the opposition look at the final outcome, see massive amounts of money going into marginal, gov-
government held seats, see massive amounts of money going into National Party seats and say, ‘This secret process seems to turn up a hell of a lot of money for National Party and Liberal members, their seats and constituencies, but not nearly as much for seats that the government members don’t hold.’ There is no accountability in that. There is no transparency. If the government wants to establish its credentials in this, as part of a debate on education and improving the lot of Australians in accessing quality education, it should properly provide to the public—open to the public—a clear statement of the criteria on which these funds are allocated, and that process should be transparent. This should not be a dirty deal done in a backroom in negotiations between some marginal members and the powerbrokers in the government. This should not be some dirty deal done in the backrooms of the minister’s office, but it has that smell about it.

One of the things that give that impression is not just the allocation of funds but what this government then says to the schools. I have a school in my electorate that received funding under this program last year—and I supported a number of applications from schools in my electorate for funding under this program. Because I have a background in teaching, I know a lot of the teachers in my electorate, not just from my current position as their member of parliament but from having worked with them in other roles. The school had the official opening coming up. They wanted me to come along, but people in the school who are my mates rang me and said: ‘Listen, this is happening. We’d like to invite you, but we don’t know whether we’re allowed to.’

These were experienced teachers; they had been in the system for 20-odd years plus. They had been led to believe by the people acting on behalf of this government that they had to invite a nominee of the Liberal minister but they should not invite the local member of parliament, who happened to be a Labor member of parliament. I would not have known that, except for the fact that the people involved are longstanding friends of mine. I said to them: ‘Yes, you’re right; the government are putting the screws on. They are saying that the minister’s going to send someone along from the Liberal Party, and there’s nothing you or I can do about that, but I’m entitled to go as well. I’m the local member, I’m entitled to go, and you should feel no qualms whatsoever about inviting me.’ Of course, they did, and the ceremony unfolded.

When you have people at a school level who are experienced educators, experienced administrators in the school, who are concerned about that situation, it adds to the flavour of this. It adds to the odour; it adds to the smell. It is a bit like the CSIRO scientists who recently expressed concerns. And I think that is a great pity, because one of the areas in need of additional resources and support on both sides in this place is education research and development funding. All of us should be supporting it to the extent that we are able to, properly, within financial constraints. We should all be doing that. I think it is unfortunate that programs like this are being administered in a way that does not comply with those ideals.

We do need to have additional funds. The process should be transparent. There should be a clear needs analysis. The funds should be allocated to those in greatest need for projects identified as fitting an overall objective. No evidence has been put forward to the public or even in this parliament by the government to show that that is the case. Until the government does that, government members will continue to incur the wrath of people on this side of the parliament for behaving in a partisan and crass way. If that is uncomfortable, that, I guess, is the state of play.
But I say to those on the government benches: do not pretend that you can absolve yourselves of the problems you have created in that respect by simply saying that it is the states’ fault; they got GST money. Let us lift the debate a couple of notches above that.

In conclusion, can I say that I am delighted to see Sir James Killen in the chamber—a fine Queenslander and a decent and honourable man. I am delighted to see you here, Sir James. I am sure he is here for the celebrations that government members are having this evening. I cannot say I am celebrating in the same way, Sir James, but I am delighted to see you in good health and here to join in those celebrations.

Mr HENRY (Hasluck) (1.49 pm)—I rise today to speak on a bill which is particularly important to my constituents in Hasluck. The Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006 contains provisions which are vital to the continued success of a fantastic school in my electorate of Hasluck—that is, Corridors College, a non-government school in Midland. I must say that it is very nice to see school students here in the gallery to hear part of this debate, although it is a bit of a shame that the member for Brisbane could not lift the level of it—talking about dirty deals et cetera. The only dirty deals that are done in this House are on the opposition benches, between their union supporters and those seeking preselection in the Labor Party. They are the only dirty deals that are done in this House.

Corridors College was established in 1998 to provide educational opportunities for kids who have been excluded from mainstream schools or who just cannot adjust to formal school environments. These young people are in danger of dropping out of school entirely, which would be a tragedy for them and for our communities. Corridors College provides a unique opportunity for them to continue their education. Essentially, it is a high school for street kids. Almost all these kids are involved with the state child welfare and juvenile justice systems. They have often been subject to physical, emotional and sexual abuse; neglect; exposure to violence and drug use; poverty; and homelessness. They struggle just to survive.

Under the act, the non-government special schools automatically have an SES funding level of 70 per cent of the relevant average government school recurrent cost amount, which is the highest general recurrent funding level. Recognition as a special school does not always include schools that cater for socially and emotionally disturbed students at risk of dropping out of the education system. This bill corrects this anomaly in existing legislation, providing maximum general recurrent funding to these schools. This is consistent with the original intention of the SES funding arrangements for these schools. This translates into a five per cent increase in recurrent SES funding for Corridors College, amounting to about $50,000 per annum. This recognition of and funding for the school, which provides such a worthwhile and important service, will be warmly welcomed.

Dr Terry Parsons, a dedicated educator who has been Principal of Corridors College since 1999, is very pleased that the Howard government is putting forward these amendments. I would also like to congratulate him on his plans to extend the vocational and training options for students at Corridors, and I look forward to working with the school towards this goal.

At this point I might mention that the school is very well served by its board of directors. The chairman of the board is Andrew Gaynor and the deputy chairman is a gentleman by the name of Jim Thomason. These two gentlemen are well known to me.
for the huge contribution they have made over a good number of years in vocational training programs for disadvantaged youths. I certainly compliment them on their continued support of and involvement with these disadvantaged people in our community. I know that their involvement with Corridors College will be an ongoing success, and I congratulate them for making the effort to be involved.

Returning to the substance of the bill, its purpose is to amend the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act 2004, which provides funding to states and territories for government schools and funding for non-government schools for the 2005-08 funding quadrennium. I am proud to say that the Howard government will provide approximately $33 billion in funding to schools between 2005 and 2008. This is the biggest commitment ever made to schooling by an Australian government. This legislation provided for investment in school infrastructure, providing an additional $1 billion of Australian government funding for the Investing in Our Schools program. This helps Australian schools build and restore school buildings and school grounds by providing additional funds to schools for these sorts of projects.

In my humble opinion, one of the best features of the Investing in Our Schools program is that, in government schools receiving funding, it is the community—parents, students, teachers, principals and parents and citizens associations—who decide the infrastructure priorities, not the state government bureaucrats. I know that this is relished by the people and the school communities of Hasluck.

I note that today in the chamber the member for Jagajaga has also attacked the Investing in Our Schools program—along with the member for Brisbane just a little while ago—making all sorts of claims and complaints of bias. She complained that Labor seats receive less funding overall. It seems obvious to me that the coalition simply holds more seats in parliament than the Labor Party and holds the vast majority of large rural and regional seats. Furthermore, all schools are eligible for the Investing in Our Schools program. It is a school based initiative, an opportunity for schools to take advantage of funding being provided by the federal government. It does not go through state governments, because it needs to be transparent. The full benefit of that funding needs to go to the schools, not to state governments.

It is very difficult to give equal funding to Labor seats when there are so few, particularly when Labor members do not promote this initiative in their electorates. They need to get off their backsides and do something about it in their electorates to make sure that schools in their electorates benefit.

Mr Swan interjecting—

Mr HENRY—The member for Lilley is interjecting. I will go on and talk about Labor’s state electorate seats shortly. Even so, 53 per cent of the funding in Tasmania and 67 per cent of the funding in the Northern Territory was in Labor held seats, somewhat confounding the claims by the member for Jagajaga. The assessment process for these grants is independent, and the government accepted in full the recommendations from the independent state based assessment advisory panels. These panels have parent and principal representatives who vote in the assessment process. State governments and the Commonwealth government do not have a vote in this process. What the opposition are concerned about are their Labor mates in state governments not being able to manipulate Commonwealth money.

I think any accusation of bias is just sour grapes from the opposition. They know that
their mates in state Labor governments have failed to address the needs in schools. I do not know about other states, but in my home state of WA there is no excuse for this. The state Labor government there have a huge budget surplus, thanks to the boom in the resources sector. What do they do with it? They fund railways that never seem to get any closer to being finished, they ignore schools, they ignore hospitals and they ignore law and order. In fact, in this morning’s or yesterday’s *West Australian* it was reported that, in the first half of this financial year, the Western Australian government had made a surplus of over $1 billion. It is interesting to note also that some of the schools in the state Treasurer’s electorate of Belmont, a Labor seat, are benefiting from the Howard government’s Investing in Our Schools program. They are not missing out on available opportunities.

The member for Brisbane said that this is not a state versus Commonwealth issue. This is absolutely right: it is about adequately funding our schools, because the state Labor governments and territory governments are not funding schools in an effective and appropriate way. No wonder schools are falling over themselves to take advantage of the funds available in the Investing in Our Schools program.

Once again, the Howard government provides the funding and puts in place an independent assessment program only to suffer the sort of abuse that we have had from Labor members on the other side. At least we know that those of us on this side of the House are part of something positive for education and for our children and the children of this country.

I would like to outline some of the schools in the federal electorate of Hasluck that have benefited from this program. The Gosnells Primary School has recently been informed of a grant of $69,459 under the approved projects under the Investing in Our Schools program. Gosnells Primary School is one of the oldest primary schools in the Hasluck electorate. It is in what would have to be considered a very strong state Labor seat. The state Labor government has ignored this school for years. The Gosnells Senior High School has just received $150,000 for a whole range of programs to help provide amenities for students at that school, including shade structures, an outdoor area upgrade, classroom improvements and playing field upgrades.

High Wycombe, in the strongly held state Labor electorate of Belmont, held by the state Treasurer, Eric Ripper, have just received $72,000. They are more than happy to see these funds coming into their school from the Investing in Our Schools program, because they are providing the sorts of amenities that all of our children should have at their schools. Similarly, the Yule Brook College in Maddington, another state government held seat, has just received $72,000 from the Investing in Our Schools program. I see the member for Jagajaga is in the House now, so it is very pleasing to be able to let her know that state Labor seats are certainly benefiting very well through the Investing in Our Schools program. This bill will do a lot to help schools all around Australia and schools like the Corridors College in the electorate of Hasluck are great beneficiaries of the Howard government’s program and the changes that are occurring in education.

The SPEAKER—Order! It being 2 pm, the debate is interrupted in accordance with standing order 97. The debate may be resumed at a later hour. The member will have leave to continue speaking when the debate is resumed.
QUESTIONS WITHOUT NOTICE

Oil for Food Program

Mr BEAZLEY (2.00 pm)—My question is to the Deputy Prime Minister and Minister for Trade. I refer to the cable dated 10 April 2001 entitled ‘UN Iraq AWB Exports’, which was sent to the minister’s office from Bronte Moules, which referred to the existence of ‘hard evidence of kickbacks and contraventions of the sanctions regime’. When did the minister become aware of the contents of this cable?

Mr VAILE—There have been a number of issues raised around a number of cables at that time and obviously referring to allegations that had been made, as has been clearly pointed out in this place, by competitors of Australian wheat growers. Quite clearly, the action that the government has taken and the action that DFAT has taken have clearly addressed the issues that have been raised.

Mr Beazley—On a point of order: I asked the minister when he saw it, Mr Speaker.

The SPEAKER—The minister has concluded his answer.

Wheat Exports

Mr FORREST (2.01 pm)—My question is addressed to the Deputy Prime Minister and Minister for Trade. Would the Deputy Prime Minister update the House and the wheat growers of Mallee on the outcomes of his visit to Iraq over the weekend?

Mr VAILE—I thank the honourable member for Mallee for his question. Of course, we know that the wheat growers in his area and in fact wheat growers right across Australia are very interested in the ongoing relationship that we and they have with the markets across the world. Given recent events, it was decided that I should lead a delegation to Iraq over last weekend to meet with senior ministers in the Iraqi government in terms of the ongoing ability of Australian wheat growers to have access to that market. I can report that that delegation and that visit have been extremely successful in getting a clear indication—announced as part of a joint ministerial statement between myself and Dr Ahmad Chalabi, Iraq’s Deputy Prime Minister—that the Iraqi government is going to continue to welcome tenders from Australian wheat growers and Australian exporters to get wheat into that market in Iraq.

Whilst I was there I had meetings with Prime Minister Al-Jaafari, Deputy Prime Minister Chalabi and trade minister Basit Karim—three senior ministers in the Iraqi government. At the time, the Iraqi government was dealing with a very sensitive and difficult domestic circumstance after the bombing the week before of the Golden Mosque in Samarra, but they saw the importance of the relationship between Australia and Iraq as having such standing that they saw me in the middle of all that was going on there. I received a guarantee from the Iraqi Deputy Prime Minister—the man directly responsible for wheat trade—that Australia can continue to tender for Iraqi wheat contracts.

Mr Beazley—They said that the week before.

Mr VAILE—The Leader of the Opposition said, ‘They said that the week before.’ We know how the Labor Party operate: they send messages to each other through the media. The member for Batman, who is not here, sends messages to the Leader of the Opposition. The member for Griffith is always doing it, sending messages to the Leader of the Opposition. We are not prepared to accept that—

Mr Price—On a point of order on relevance, Mr Speaker: how can that be at all associated with his visit to Iraq?
The SPEAKER—I thank the Chief Opposition Whip. Has the Deputy Prime Minister completed his answer?

Mr VAILE—No, I haven’t.

The SPEAKER—I call the Deputy Prime Minister and bring him back to the question.

Mr VAILE—So the object of the exercise—

Mr Rudd—I rise on a point of order. With respect, Mr Speaker, you did not rule on the Chief Opposition Whip’s point of order.

The SPEAKER—The member for Griffith clearly was not listening. I said to the Deputy Prime Minister that he would come back to the question. So that was a frivolous point of order.

Mr VAILE—The point that I was making was that there might have been media reports but it was important that an Australian government minister participated in a direct personal meeting with an Iraqi government minister to confirm the relationship and the arrangements that would continue to exist in trade between our two countries—where you could stand face to face, eyeball to eyeball, and shake hands on an arrangement that was being put in place.

Opposition members interjecting—

Mr VAILE—The Labor Party can carry on like a bunch of schoolgirls all they like, but the reality is, if they were running this country, they would have done exactly the same thing. They would have got on a plane and gone over—and, if they did not, they would be abrogating their responsibility to Australian grain growers. They would be abrogating their responsibility.

As members would have clearly recognised when they read the joint ministerial statement that I issued with Dr Chalabi, there is a clear commitment to Australian grain and Australian exporters being welcome in that market. I might say, while I am on the subject, that in the discussions Dr Chalabi was very complimentary of the quick action the Australian government has taken to establish the Cole inquiry. He was very complimentary of the way we have done that and recognised that there had not been any other government that had taken the action that the Australian government had taken. Regardless of what the Labor Party have to say on this matter, Australian wheat growers should be comfortable in the knowledge that they will have continuing access to this market in Iraq. They will be welcome to continue to compete for tenders in the Iraq market.

DISTINGUISHED VISITORS

The SPEAKER (2.07 pm)—I inform the House that we have present in the gallery this afternoon many distinguished former members and senators, including Sir James Killen, Mr Bob Charles, Dame Margaret Guilfoyle and the Hon. Daryl Williams. On behalf of the House, I extend a very warm welcome to our visitors.

Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE

Oil for Food Program

Mr BEAZLEY (2.07 pm)—My question is to the Deputy Prime Minister, and it follows the first question I asked. Deputy Prime Minister, for the second time, when did you become aware of the contents of the cable to which I referred—a copy of which went to your office? When did you become aware of the contents of the cable of 10 April 2001?

Mr VAILE—The substance of this issue was that AWB sought advice on payment of port fees, which was appropriately referred to the sanctions committee—

Mr Beazley—Mr Speaker, I rise on a point of order, which goes to relevance. It was a simple question. I asked when he became aware of the contents.
The SPEAKER—The Deputy Prime Minister has only just commenced his answer.

Mr VAILE—The Leader of the Opposition is so fixated about times and dates. As I was beginning to say, the AWB sought advice on port fees. Advice was given. After seeking that advice from the UN sanctions committee, the issue was resolved to DFAT’s knowledge and the AWB advised that the Iraqi demands were dropped. That is the essence of the issue. If you want me to check my records, I will check my records.

Economy: Growth

Mr MICHAEL FERGUSON (2.09 pm)—My real question is addressed to the Prime Minister. Prime Minister, would you advise the House how Australian workers are benefiting from the government’s strong economic management? Prime Minister, I would like to know how this compares with the record of the previous government.

Mr HOWARD—I thank the honourable member for Bass for his question, asked inter alia on behalf of the working men and women of that electorate. Mr Speaker, before I answer it, may I be permitted to join you in welcoming many former members of this House and another place to the gallery. I hope I can be forgiven for particularly singling out my old friend Sir James Killen. There was a time—a short time and a rather frantic time—in Australian politics when there was no more important Liberal in Australia than Sir James Killen. I welcome all of my former colleagues to this place.

The good news, the really wonderful news, is that in the last 10 years real wages in this country have risen by 16.8 per cent. The member for Bass asks me how that compares with the record of the former government. I will tell you how it compares.

Mr Tanner interjecting—

The SPEAKER—Order! The member for Melbourne!

Mr HOWARD—It is a word that Sir James Killen would be familiar with; it compares ‘magnificently’ with the performance of the former government. Over 13 years of Labor government, the real wages of Australian workers increased by a miserable 0.3 per cent—13 years of Labor equals 0.3 per cent; 10 years of the coalition equals 16.8 per cent. I can only say again, as I have said before in this place, that, when we last faced the Australian people—and I had the opportunity of addressing a rally in Western Sydney—I had no prouder boast than to say to them that, under this government, more had been done for the working men and women of this country than any Labor government had ever dreamt of. It used to be the party of the workers. It used to be the party that looked after the interests of working men and women, but when it was last in office it boasted about the fact that it had suppressed real wages. By contrast, this government has presided over higher real wages, higher levels of employment, sharply lower interest rates, lower levels of taxation and higher numbers of apprentices.

Mr Tanner interjecting—

The SPEAKER—The member for Melbourne is warned!

Mr HOWARD—Since 1996, real net household wealth has risen by an average of 8.8 per cent a year. Australia’s unemployment rate has fallen from 8.2 per cent in March 1996 to 5.3 per cent now. In Australia, 1.7 million new jobs have been created under the coalition and inflation has been contained, averaging just 2½ per cent a year. The greatest obligation that any government has is to look to the interests of the average working men and women of this country. We have done it. It has been at the centre of everything that we have done as a government.
over the last 10 years, and these figures released today show that real wages have risen by 16.8 per cent. Let me say that again: 16.8 per cent versus a miserable 0.3 per cent in 13 years of Labor. It is the latest piece of field evidence that this government remains dedicated to the interests of the average working men and women of this country.

Oil for Food Program

Mr BEAZLEY (2.14 pm)—Again, the question is to the Deputy Prime Minister and Minister for Trade. For a third time, when did the Deputy Prime Minister become aware of the contents of the 10 April 2001 Bronte Moules cable?

Mr VAILE—I have answered this. He is asking me when I read a cable in 2001. I said to him I will check when I saw the cable, but the substance of the cable was about port fees. It was addressed by the UN sanctions committee. The trade went on and the cargo was unloaded without there being—

Opposition members interjecting—

The SPEAKER—Order!

Mr VAILE—That is what we have been told. If it is a major debating point—when you read it or when you did not read it—the resultant action justifies the position the government has continued to take in this whole matter.

Economy

Mr HENRY (2.15 pm)—My relevant question is addressed to the Treasurer. Would the Treasurer update the House on the latest national accounts figures? What does this say about the need for experienced and consistent economic management?

Mr COSTELLO—I thank the honourable member for Hasluck for his question. I can inform him that the national accounts came out for the December quarter today. They showed solid economic growth of 0.5 per cent for the quarter and 2.7 per cent for the year. Importantly, we see that consumption is continuing to moderate and the housing cycle, which the government expressed concern about some years ago, continues to readjust. National growth is now led by business investment. New private engineering construction grew 7.1 per cent in the quarter and 29.8 per cent through the year. New machinery and equipment investment grew 6.2 per cent in the quarter and 15.8 per cent through the year.

What we are seeing now is a rebalancing of the Australian economy—out of the housing cycle and consumption into business investment—which will build capacity and, particularly in the mining industry, allow Australia to take advantage of very strong terms of trade. That terms of trade increase indicates the importance of experienced management, and not just experienced management on this side of the House but, if the opposition should ever come to government, they would need experienced management too. But unfortunately the factional war lords—

Mr Wilkie interjecting—

The SPEAKER—The member for Swan!

Mr Wilkie interjecting—

The SPEAKER—The member for Swan is warned!

Mr COSTELLO—are about to shoot all the experience of the Victorian ALP. We had the member for Maribyrnong yesterday terminated with extreme prejudice.

Mr Albanese—Mr Speaker, I raise a point of order under standing order 104.

The SPEAKER—I call the Treasurer and remind him of the question.

Mr COSTELLO—It is important to have experienced management, and it is necessary to have experience on both sides of the parliament. That will not be helped by the member for Maribyrnong, who yesterday
was terminated with extreme prejudice by a union official.

Mr Albanese—Mr Speaker, I rise again on a point of order under standing order 104. This was a question—

The SPEAKER—The member for Grayndler will resume his seat. The Treasurer has only just returned to answer the question. I call the Treasurer. He is in order.

Mr COSTELLO—I think that the parliament would also benefit from the continuing experience of the member for Corio. The ghost who walks is not here because the factional war lords—

Mr Kerr—Mr Speaker, I rise on a point of order. How can it be said that it is within the Treasurer’s area of responsibility to this parliament to make comments on preselections? They have their own bloody preselections—

The SPEAKER—The member for Denison will resume his seat.

Mr COSTELLO—Again I notice that the member for Hotham is another ghost who walks today. He is not here. But I was rather taken—

Mr Albanese—Mr Speaker, I rise on a point of order. Under standing order 98(c), parts (i), (ii) and (iii), this is out of order.

Mr Abbott—Mr Speaker, on the point of order: there is obviously an organised tactic by members opposite to try to disrupt the giving of answers by taking points of order.

Opposition members interjecting—

The SPEAKER—Order! The Treasurer deserves the opportunity to return to answering the question. He is constantly being interrupted and I will take action if members continue to interrupt before the Treasurer has had an opportunity to continue answering his question.

Mr COSTELLO—It is important to have experience on both sides of the parliament because it is necessary for economic management. I got some support for this view with an article published in the *Australian* today called ‘Storytellers galore but no story to tell’. It was written by the member for Batman, one of the more experienced members of parliament.

Mr Price—Mr Speaker—

The SPEAKER—The Treasurer will resume his seat. I remind the Chief Opposition Whip that I have asked that the Treasurer be given an opportunity to answer the question, but I will take his point of order.

Mr Price—Mr Speaker, I rise on a point of order. With due respect, the Treasurer is well down that path, but I did want to draw your attention to page 553 of the *House of Representatives Practice*. Also, could I draw your attention to rulings of your distinguished predecessor, Speaker Andrews, on 20 June 2002, at page 4072 of *Hansard*, and on 6 September 2000 at page 20270—

The SPEAKER—The Chief Opposition Whip will come straight to his point of order. He does not need to quote past *Hansards*. The point of order is?

Mr Price—Mr Speaker, I have two points of order: firstly, standing order 104 and, secondly, standing order 98(c)(i), I think it is.

The SPEAKER—I remind the Chief Opposition Whip that standing order 98 refers to questions, not to answers. The Treasurer has the call, and I am listening carefully to the Treasurer’s answer.

Mr COSTELLO—I want to cite, in support of my argument about the importance of experience in the parliament, an article in today’s *Australian* written by the member for Batman entitled ‘Storytellers galore but no story to tell’. The member for Batman said:
... after a decade in Opposition we have plenty of storytellers but not much of a story to tell.

Mr Ripoll interjecting—

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

Ms Gillard—Mr Speaker, I rise on a point of order and further to the points of order raised by the member for Grayndler. You have consistently and properly asked the Treasurer to come back to the question. The question was on the economy. The matters he is now going to are not relevant.

The SPEAKER—The Treasurer is answering the question. I said I would listen carefully. It is very hard to hear what he is saying when he is constantly interrupted, and I think members should show some respect.

Mr COSTELLO—I do not think it is necessary to try to gag what the member for Batman wrote. It is in a newspaper today. He talks about the need for experience amongst members. He says:

This will not be remedied by rubbing out sitting MPs in safe Labor seats in favour of party hacks with factional numbers—

Mr Wilkie interjecting—

The SPEAKER—Order! The member for Swan has been warned. The member for Swan will remove himself under standing order 94(a).

The member for Swan then left the chamber.

Mr COSTELLO—The problem of experience amongst members of the opposition, as the member for Batman says:

... will not be remedied by rubbing out sitting MPs in safe Labor seats in favour of party hacks with factional numbers on public office selection panels or through branch stacks.

We would endorse that statement. I think both sides of parliament will join with the member for Batman and support colleagues on Labor’s front bench with the experience that they bring to this parliament.

Oil for Food Program

Mr Rudd (2.25 pm)—My question is to the Deputy Prime Minister. I refer to the three previous questions asked of him by the Leader of the Opposition and his undertaking to consult his records. I also refer to the Austrade cable from Washington, dated 11 March 2000, entitled ‘Australian Wheat Board dealings with Iraq under the oil for food program’, released yesterday by the Cole inquiry. When did the minister first become aware of the contents of this cable? If the minister cannot answer the question now, will he consult the advisers in the chamber and provide an answer to this question, and the previous question, prior to the end of question time?

The SPEAKER—in calling the Deputy Prime Minister, the first part of the question is in order. He is not required to answer the second part of the question.

Mr Rudd—Mr Speaker, I rise on a point of order. With respect, on what standing order did you make that ruling in relation to the second part of the question?

The SPEAKER—The ruling is on the basis of what is in order with questions. I refer the member for Griffith to the relevant part of the standing orders.

Mr Rudd—Mr Speaker, I rise on a point of order. With respect, could you draw my attention to which element of the standing orders or the House of Representatives Practice you have drawn upon in ruling the second part of my question to the Deputy Prime Minister out of order.

The SPEAKER—I thank the member for Griffith. If he wants to discuss the House of Representatives Practice, he is very welcome to come around to my office afterwards. The second part of the question is out of order.
Mr VAILE—I thank the honourable member for his question. The honourable member would be well aware of the addressee of the cable and that the cable contained information with regard to the general allegations about the AWB and contracts with Iraq. The cable also indicated: ‘The deputy managing director may see fit to advise the Minister for Trade.’

Ms Gillard—When did you get the cable?

Mr VAILE—I have checked my records following the tabling of this cable in the Cole inquiry, and I have checked with the then deputy managing director of Austrade. I do not have a record of any specific briefing he gave me; he does not have any record of any specific briefing he gave me. But the general issue that was being addressed and reported here was certainly known to the government at the time because DFAT were dealing with it. DFAT had taken advice. Information had come in from the mission in New York. They had sought responses from the AWB. This is all public knowledge in the public domain at the moment. DFAT were dealing with the issue in the broader public domain. They had sought advice from the AWB and ultimately they provided the information required to the UN, to the satisfaction of the UN.

Iraq

Dr JENSEN (2.29 pm)—My non-repetitive question is addressed to the Minister for Foreign Affairs.

The SPEAKER—The member for Tangney will get on with his question.

Dr JENSEN—Would the minister update the House on the Saddam Hussein trial in Baghdad and testimony—

Ms Plibersek interjecting—

The SPEAKER—Order! The member for Sydney!

Dr JENSEN—I guess I am going to have to repeat my question again. Would the minister update the House on the Saddam Hussein trial in Baghdad and testimony concerning the nature of the former regime?

Mr DOWNER—I thank the honourable member for his question. It is nice to have him ask a question when his predecessor in Tangney is sitting in the gallery—the Hon. Daryl Williams, a great Attorney-General. Saddam Hussein’s trial commenced last October in Baghdad and he and seven of his henchmen are being tried in an Iraqi court. Of course, they are being tried by Iraqis. This is a case of the massacre of 148 people from the village of Dujail following an incident, as it is called, in 1982.

The House will be interested to know that the court sat yesterday. It has previously heard witness testimony. Yesterday it had presented to it several documents, including a presidential order signed by Saddam Hussein in 1984 approving the death sentences of all 148 people and a document signed by his half-brother ordering the execution to take place. Investigators claim that 96 of them were executed and the remainder were liquidated during interrogation. The 148 allegedly included 10 aged between 11 and 17, who were executed later in secret.

This is just one of the many appalling alleged crimes committed by Saddam Hussein’s regime and it is a reminder—not that
we need one on this side of the House—of the justice in bringing this cruel regime to an end. On this side of the House, when we think of all the things we have done over the last 10 years, it is one of the things that we are very proud of: that our country made a contribution to getting rid of that regime. In that context, I agreed with the Leader of the Opposition when he said yesterday that Saddam Hussein certainly had a weapons of mass destruction research program. During the course of last month the Leader of the Opposition said he may have actually been building weapons of mass destruction. The Leader of the Opposition also said yesterday: ‘We know for a fact that Saddam was supporting terrorists,’ and of course he has been talking at great length about Saddam rort ing sanctions. This was, of course, a deeply corrupt regime. I would only say this—

Mr Tanner—isn’t that the pot calling the kettle black! Who was corrupting them?

The SPEAKER—Order! The member for Melbourne will remove himself under standing order 94(a).

The member for Melbourne then left the chamber.

Mr DOWNER—I make two observations. At a time when people like Sir James Killen were members of the House of Representatives, the Labor Party tried to raise $500,000 for the 1975 election campaign from Saddam Hussein’s regime—Blues Point Tower. A curious position for a political party, but perhaps a cynic may say it was no coincidence that, come 2003, the Labor Party did not want to see that hideous regime overthrown.

DISTINGUISHED VISITORS

The SPEAKER (2.35 pm)—I inform the House that we have present in the gallery this afternoon Professor Marek Belka, a former Prime Minister of Poland. On behalf of the House I extend to him a very warm welcome.

Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE

Oil for Food Program

Mr RUDD (2.35 pm)—My question is to the Deputy Prime Minister and I refer to his answer to my last question concerning the Austrade cable of 11 March 2000 and his specific answer to it. I also refer to the Deputy Prime Minister’s statement just now that the general issue of concerns about AWB’s dealings with Iraq ‘was certainly known to the government at the time’. Deputy Prime Minister, if these concerns were certainly known to the government at the time, referring to the time when this cable was sent in March 2000, how is that compatible with the Deputy Prime Minister’s formal statement to the parliament on 8 November 2005, when he said, ‘The allegations raised first came to my attention as a result of the Volcker inquiry,’ which did not begin until April 2004, some four years later?

Mr VAILE—The member for Griffith knows full well the difference in this issue. It is about allegations of kickbacks and it is about allegations of the use of Alia. This is about questions with regard to the contracts. The substantive issue here is that these questions were answered to the satisfaction of the United Nations, which was running the oil for food program. The opposition know that, and they are just trying to create a political scandal out of this. This government has been totally transparent in offering up all the information to the Cole inquiry, as was clearly indicated to me by ministers in the Iraqi government. How complimentary they were of the fact that the Australian government has established this inquiry to get to the bottom of this matter.
Mr ANTHONY SMITH (2.37 pm)—My question is addressed to the Minister for Health and Ageing. Would the minister advise the House what the government is doing to ensure the sustainability of the Pharmaceutical Benefits Scheme? Are there any alternative policies and, if so, what is the government’s response?

Mr ABBOTT—I thank the member for Casey for his question. This government does understand that the best possible health care cannot always come entirely free. No one likes to see costs to patients rise but just occasionally it is necessary in order to ensure the sustainability of the system. This is why the government very reluctantly increased the PBS copayment so that the patient PBS contribution should be restored to roughly the level applying under the former Labor government. It is very important that ministers should give credit where it is due. I am very pleased to acknowledge that the member for Hotham strongly supported the government’s copayment decision. It was a difficult issue but he strongly supported it and now we have the faceless men of the Victorian Labor Party trying to eliminate the member for Hotham because, on this precise point of the PBS copayment, the member for Hotham fingered the rats in Labor’s ranks. I am quoting from The Latham Diaries on page 301:

A disgraceful Caucus meeting this morning. Very truthful diaries according to the member for Lalor.

Ms Gillard—Mr Speaker, I rise on a point of order. This was a question about the Pharmaceutical Benefits Scheme. It did have a tag line about alternative policies. If the Minister for Health and Ageing wants to talk about my policy for funding calcium and the like, I am more than happy for him to do so but—

The SPEAKER—The Manager of Opposition Business will not debate points of order. I am listening closely to the minister’s answer.

Mr ABBOTT—The member for Lalor is somewhat self-absorbed, but I am not going to refer to the member for Lalor. I am quoting about the PBS:

A disgraceful Caucus meeting this morning. The geniuses were getting ready to roll—McMullan—on his PBS recommendation ...

... ... ...

Someone leaked news of the stoush to Channel Ten ...

Crean blames Smith, says he saw him scurrying out of the Caucus room to the phone.

Ms Gillard—Mr Speaker, on a point of order: the minister for health was asked about the Pharmaceutical Benefits Scheme and any alternative policies. That would have to refer to contemporary policies.

The SPEAKER—The Manager of Opposition Business would be well aware that there is only one standing order that applies to answers: that they shall be relevant. The minister continues to refer to the Pharmaceutical Benefits Scheme. He is in order.

Mr ABBOTT—I am quoting from The Latham Diaries:

He—

Crean—also reckons all the speakers against the PBS recommendation were Beazley supporters.

What we have is payback time for the member for Hotham’s principled stand on the PBS copayment. Saturday’s Weekend Australian said:

As Mr Crean and his Khmer language translator continue to visit the large number of Cambodian preselectors ...
I table some PBS documents in Khmer because it might help the member for Hotham in his doorknocking.

Honourable members interjecting—

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

Mr ABBOTT—I make this point—

Opposition members interjecting—

The SPEAKER—Order! The minister has the call.

Mr ABBOTT—I have the call. A point of order had been taken on me. I make this point—

Mr Price—Mr Speaker, on a point of order: there is only one standing order in relation to the answering of questions, but your predecessors from time to time have actually enforced it. I cannot for the life of me see how this is relevant.

The SPEAKER—The Chief Opposition Whip will resume his seat, and I will remind him that if he wishes to reflect on the chair I will deal with him.

Mr Albanese—Mr Speaker, on a point of order: the minister in order to, I assume, make some political point has tabled a document in Khmer thinking that is funny. I actually happen to think that the issue of race and ethnicity is not something—

The SPEAKER—The member for Grayndler will resume his seat. There is no point of order. The member for Grayndler will resume his seat.

Mr Albanese—My point of order—

The SPEAKER—The member for Grayndler is warned!

Mr Albanese—Can I ask a point of order?

The SPEAKER—The member for Grayndler has asked me to rule on a point of order. I have ruled and I have asked him to resume his seat.

Mr Albanese—I have not raised it.

The SPEAKER—If you want to raise a point of order, you raise it immediately when you stand.

Mr Albanese—Is it within standing orders to table documents in languages other than English in this parliament? Can you rule on that please?

The SPEAKER—If the member for Grayndler wishes to ask the Speaker questions, there is an appropriate time.

Mr Albanese—I just did—a point of order.

The SPEAKER—At the end of question time.

Mr Albanese—It is a point of order.

The SPEAKER—The member for Grayndler has been reminded that, if he wishes to ask the Speaker questions, he does that at the appropriate moment.

Mr Albanese—Mr Speaker, is it in order under standing orders and House of Representatives Practice to table something in another language?

The SPEAKER—The member for Grayndler will resume his seat. That is not a point of order.

Mr ABBOTT—I have tabled some PBS documents to assist the member for Hotham in his doorknocking. I make the point that this is what the modern Labor Party has come to—a former alternative prime minister of this country is reduced to pleading for his political life through a translator. This is what they have come to. I am all in favour of migrants joining political parties but not to be robots for factional war lords.

Opposition members interjecting—

The SPEAKER—The Chief Opposition Whip is warned!

Honourable members interjecting—
The SPEAKER—The level of noise is totally unacceptable.

Mr Albanese—Why is that? How is David Oldfield going?

The SPEAKER—The member for Grayndler is warned!

Mr Abbott—The Leader of the Opposition likes to talk about probity in government. What about a bit of probity in opposition? What about saying to those ethnic branch stackers, ‘Yes, I’ll give you a bit of good, old-fashioned Aussie freedom to vote for whoever you want in the Hotham preselection’?

Mr Cameron Thompson interjecting—

The SPEAKER—The member for Blair is warned!

Oil for Food Program

Mr Beazley (2.46 pm)—My question is to the Deputy Prime Minister. Given that the cables we have been referring to point exactly to the circumstances of AWB’s potential involvement in the breach of the sanctions regime of the United Nations and that you have stated a general awareness of it at the time, did you not fundamentally mislead this House when you said, ‘The allegations raised came to my attention as a result of the Volcker inquiry’? Isn’t this just another part of your personal cover-up?

The SPEAKER—Before I call the Deputy Prime Minister, I remind the Leader of the Opposition again that he should address his remarks through the chair.

Mr Vaile—The answer to the Leader of the Opposition’s question is no. The Labor Party continue to selectively quote from material that has been presented to the Cole inquiry, so I am going to selectively quote. In one of the cables they have been referring to, the OIP, the Office of Iraq Program, noted it had no way of judging the accuracy or otherwise of the claims.

Mr Danby interjecting—

The SPEAKER—The member for Melbourne Ports is warned!

Pacific Region

Ms Panopoulos (2.48 pm)—My question is addressed to the Minister for Foreign Affairs. Will the minister update the House on the government’s aid program to the Pacific, and are there any alternative policies?

Mr Downer—I thank the member for Indi for her question. I appreciate the interest she shows in the Pacific region, which is so important to Australia and which she has visited from time to time. Of course, the government has a very strong interest in a stable and prosperous South Pacific and we accept, as the Prime Minister has often said, that we have special responsibilities in the region.

Mr Ripoll interjecting—

The SPEAKER—The member for Oxley has already been warned!

Mr Downer—Pacific island countries are facing many challenges, so inevitably we are generous. Australia now provides nearly $1 billion a year in effective aid to the South Pacific, if you include Papua New Guinea. One of the keys to our policy is good governance, which in our view is a cornerstone of sustainable development. The quality of government underpins economic prosperity, quality of life and also security.

Our aid program has included restoration of the rule of law and justice in the Solomon Islands and Bougainville; the introduction of the Enhanced Cooperation Program in Papua New Guinea, parts of which are working very well; regional leadership to tackle HIV-AIDS; and the establishment of the Australian Youth Ambassadors for Development Program, which has been great for many of the Pacific island countries and wonderful
for a lot of young Australians, as many members on both sides of the House will know.

The honourable member asked if there were any alternatives. There are. The member for Mariibyrnong, as the shadow minister for overseas aid and Pacific island affairs, has worked tirelessly on this issue. I remember warmly the time he travelled with me in December 2004 to the Pacific islands.

Mr Ripoll—How warm were you?

Mr DOWNER—He showed interest, enthusiasm and decency. I was very impressed with him and got on very well with him, if I may say so, to interject a personal element here. He produced very recently a policy which, let us face it, had a few less than flattering things to say about the government, but I suppose that is the work of an opposition. But he put a lot of work into it, and whether you agree with all of it or not you have to admire a man who went to that much trouble. The Leader of the Opposition said yesterday of the member for Mariibyrnong that he was an outstanding shadow minister who had developed an encyclopaedic knowledge of the affairs of the region. I think that is right, which makes me wonder why the Leader of the Opposition did not support him—

Mr Ripoll—It sounds like love. You are not admitting something, are you?

The SPEAKER—Order! The minister will resume his seat. The member for Oxley will remove himself under standing order 94A.

The member for Oxley then left the chamber.

Mr DOWNER—As I was saying, such a good and successful shadow minister, a member of this House with such experience, deserves the support of his leader. And he did not get it, despite the fact that his leader thought he was outstanding. Either he said he was outstanding but did not mean it, which is why he did not support him, or he did not think he was outstanding at all but thought he may as well say it. It is either one or the other. Those are certainly not the words of a strong man and a true leader.

So, as his colleagues are taken away one by one to political execution, the Leader of the Opposition washes his hands like Pontius Pilate and just allows them to be taken away. ‘It’s nothing to do with me, Officer,’ I suppose is his message.

Mr Kerr—Mr Speaker, on a point of order: the minister commenced his remarks with generous comments about his opposition counterpart but plainly now is entering into irrelevancy with a denigration of the Leader of the Opposition. It is not in his portfolio area. It is a tactic and it should be resisted by the chair.

The SPEAKER—The member for Denison will resume his seat. The Minister for Foreign Affairs is in order.

Mr DOWNER—Let me in conclusion go back to what I was saying about alternative policies. The Leader of the Opposition is prepared to dismiss the member for Mariibyrnong—he was not prepared to support him—yet the member for Mariibyrnong put more effort into policy in his short period as shadow minister than the Leader of the Opposition has put into policy in his endless years as Leader of the Opposition.

Wheat Exports

Mr WINDSOR (2.54 pm)—My question is to the Prime Minister and relates to the Deputy Prime Minister’s statements made here today in relation to the Iraqi government welcoming tenders from the Australian wheat industry. Prime Minister, to overcome concerns from wheat growers about the future of the single desk and the unique circumstances surrounding trade with Iraq, is it
legally possible for any wheat trading with Iraq during this uncertain period to be done on a government-to-government basis rather than by grain marketers outside the Australian Wheat Board and, hence, maintain the government’s commitment to the single desk? Prime Minister, if it is legally possible, would you consider this as an option to Australia’s current predicament until the review of the Australian Wheat Export Authority is completed?

Mr Howard—I thank the member for New England for the question. We have considered that. I do not think it is a desirable alternative to current arrangements to inject the government into the equation. I do not think I can say more than that. The situation is that pending the outcome of the Cole inquiry—which obviously will bear on the future of AWB Ltd and not automatically in any way on the future of the single desk policy—the single desk policy must be looked at separately from the future of AWB. There are very strong arguments in favour of maintaining the single desk, and I have no hesitation in repeating that it remains government policy to maintain the single desk. If we were to consider a change in the future, it would be lunacy from the point of view of this country’s national interest for us to give away the single desk unilaterally. It would only ever be something you would contemplate giving away in the context of international trade negotiations. But we have looked at the very point that was raised by the member for New England. Our strong preference—and it will be no surprise to him—being a government that prefers the free enterprise option to a government option, is not to go down that path, and we do not intend to go down that path. But I thank the honourable member for the question. It gives me an opportunity to restate the government’s position.

Also, as the member for New England invited me to comment on the Deputy Prime Minister’s comments, can I congratulate the Deputy Prime Minister on the success of his mission to Iraq. He did good things in a difficult environment for the future of the Australian wheat industry. The wheat growers of Australia know that, and the wheat growers of Australia will continue to respect him for it.

Australian Labor Party

Mr Barresi—My question is addressed to the Minister for Employment and Workplace Relations. Is the minister aware of reports concerning the political activities of registered organisations under the Workplace Relations Act in the state of Victoria? What is the government’s response?

Ms Gillard—Mr Speaker, on a point of order: I think you will find an identical question was asked yesterday. Perhaps the member asking the question could clarify how it is different from yesterday’s question.

The Speaker—As I heard the question, I believe it was a different question. I call the Minister for Employment and Workplace Relations.

Mr Andrews—I have heard reports—an avalanche of criticism—about the activities of registered organisations, namely, certain trade unions and their officials who have been involved in the serial stacking of branches of the Labor Party in Victoria. This was confirmed yesterday by the member for Maribyrnong, who said that his demise as the member for Maribyrnong at the end of this parliament is the result of sleazy deals done by members of registered organisations.

Mr Albanese—Mr Speaker, on a point of order: standing order 100(b) is currently being breached.

The Speaker—The member for Grayndler would be well aware that standing
order 100 applies to questions. It does not apply to answers.

Mr Albanese—Mr Speaker, for the benefit of the House—

The SPEAKER—The member for Grayndler will resume his seat. I have ruled on the point of order you have raised. It is not to be debated. There is no debate on the point of order.

Mr Albanese—It’s just wrong.

The SPEAKER—You have asked me to rule, and I have ruled.

Mr ANDREWS—There is no doubt about it: there are deep divisions in the Australian Labor Party about this issue. When these sleazy deals are mentioned, one person’s name usually comes to the fore—Mr David Feeney. Mr Feeney, along with Mr Richard Marles, one of the union officials challenging the member for Corio for his preselection, was involved in setting up Transport 2020, a slush fund.

Mr Albanese—Mr Speaker, on a point of order: I refer to the standing order that says ‘a question fully answered must not be asked again’. Not only are we getting the same question as yesterday; we are now getting the same answer.

The SPEAKER—The member will resume his seat. I ruled the question in order. It is not appropriate to take a point of order after I have made that ruling on the question. The minister has begun his answer and the minister is in order.

Mr Albanese—Mr Speaker, I would like to raise a point of order. I refer you to page 188 of House of Representatives Practice, which states:

The opportunity to raise a point of order should not be misused to deliberately disrupt proceedings or to respond to debate. If this is, or is anticipated to be, the case, or if the Speaker believes that he or she is aware of the issues, Speakers have cut short the point of order ... Members have been disciplined by the Chair for raising spurious or frivolous points of order and for persisting with matters after the Chair has ruled.

Mr Speaker, to assist you I bring that to your attention.

The SPEAKER—I thank the Leader of the House for his point of order. He raises a valid point of order. Ministers should be given the opportunity to answer their questions. If they are continually interrupted I will take action.

Mr ANDREWS—Transport 2020 is a slush fund—set up by Mr Feeney and Mr Marles, the candidate standing against the member for Corio—whose purpose it is to fund union and ALP memberships for its associates. We know from reports that this fund has been used extensively in the seat of Corio. Mr Feeney was also sacked from the staff of the then opposition leader in Victoria, John Brumby, for his engagement in branch stacking. He was sacked as the ALP state secretary in Victoria in 2002 by Greg Sword, again for his branch-stacking activities. That of course does not stop you being rewarded in the Labor Party. He is now the assistant national secretary and the campaign manager in the South Australian state elections. If there were any leadership from the Leader of the Opposition—and the Labor Party—in this regard, he would demand the resignation of Mr Feeney from these positions.

Mr Stephen Smith—On a point of order, Mr Speaker: the question was in respect of Victoria and the minister referred to South Australia.

Government members interjecting—

The SPEAKER—Order! Members on my right! The member for Perth has the call.

Mr Stephen Smith—On that basis, Mr Speaker, shouldn’t the minister advise the House of the request of the Liberal Party of
South Australia for donations to their campaign by unions.

The SPEAKER—The member for Perth will resume his seat. The member for Perth will not debate his point of order.

Honourable members interjecting—

Mr ANDREWS—That’s quite a knockout punch—

The SPEAKER—Order! I have not called the minister.

Mr ANDREWS—Mr Speaker—

The SPEAKER—Order! The minister does not have the call.

Honourable members interjecting—

The SPEAKER—Order! The minister is in order. I call the minister.

Mr ANDREWS—Mr Speaker, the reality here is either you condone these sleazy secret deals or you oppose them. Last night we had a prominent Labor senator from Victoria running around the gallery complaining that the flow chart which I tabled yesterday could not have been accurate because he did not figure prominently enough in the flow chart!

Honourable members interjecting—

The SPEAKER—Order! The minister will resume his seat. I am going to call the next question.

Oil for Food Program

Mr RUD (3.04 pm)—My question is to the Minister for Foreign Affairs, and I refer to the minister’s statement to parliament on 31 October last year that:

As far as the government is aware, the first knowledge of Alia and concerns relating to the AWB’s use of the company was in the context of the Volcker inquiry—

an inquiry which began in April 2004. I also refer to the fact that the minister has confirmed for the first time—yesterday—that he made this statement to parliament in full knowledge of the contents of the cable of 13 January in the year 2000, which warned that the AWB was paying funds into the Jordanian bank account of a company owned by Saddam Hussein’s regime. Minister, why did you mislead the House?

Mr DOWNER—I clearly say two things. First of all, it is perfectly clear, even from the shadow minister’s question, that I did not mislead the House. More than that, you see, the point I keep making, both yesterday and in the media this morning—

Mr Rudd interjecting—

The SPEAKER—Order! The member for Griffith has asked his question.

Mr DOWNER—is the fact is that at the end of this investigation the United Nations concluded that AWB Ltd had not been doing what had been alleged by the Canadian Wheat Board. But all of this is being considered by the Cole commission and, regardless of what the opposition may say or claim—and they have spent three weeks of parliamentary time talking of nothing else, no doubt to the complete distraction and boredom of the Australian public—the simple fact is that the Cole commission is looking through all of these issues. We have given all appropriate information that the Cole commission has wanted to the Cole commission and we look forward to them completing their hearings and to Commissioner Cole producing his report.

Armed Forces

Mr FAWCETT (3.06 pm)—My question is addressed to the Minister for Defence. Would the minister outline the government’s ongoing commitment to Australia’s armed forces?

Dr NELSON—I thank the member for Wakefield for his question. He served for 22 years in the Australian Army, including being an Army test pilot, and his values and his
hard work were welcomed warmly into the Liberal family only two years ago.

On 1 March 1901, the Australian Army and Royal Australian Navy were formed. Today recognises and celebrates the 105th anniversary of these two great services. Throughout that period of time, over more than a century, those values of hard work, idealism, self-sacrifice, comradeship and courage have played a very important role in moulding Australia’s identity. Most importantly, today they are reflected in the service of almost 2,000 Australian service men and women who not only are protecting and securing Australia’s borders from illegal immigrants and illegal fishing but also are in East Timor, the Solomon Islands and the Middle East.

It is extremely important to us as a government to say on behalf of Australians how enormously proud we are of our service men and women, particularly in Afghanistan and Iraq. We are determined to continue to support them. We will not under any circumstances cut and run until the task before them is complete. I join you, Mr Speaker, and the Prime Minister in recognising Sir James Kil- len, who himself was a former distinguished Minister for Defence. Remember that date of the establishment of our Army and our Navy: 1 March 1901. For any Australian and any parent who has a son or a daughter who wants to make a real difference not only in our country but throughout the world, the number to call is 13 1901. If anyone on the other side is looking for employment, you are never too old.

Mr Trevor Flugge

Mr Rudd (3.09 pm)—My question is addressed to the Deputy Prime Minister. I refer to the letter I received from the Prime Minister yesterday just before question time confirming that former National Party candidate Trevor Flugge had access to other Aus-

tralian government money to support his activities in Iraq apart from the $1 million package paid to him through the aid budget. Deputy Prime Minister, how much other money did Mr Flugge have access to? Given that DFAT indicated that the 2003-04 AusAID budget allocated $4 million to revitalising the agricultural sector and quick impact activities, can the minister outline to parliament how much of this $4 million was at the discretion of his National Party mate Mr Flugge?

Mr HOWARD—This was the answer I gave to the member for Griffith. He asked me this question and this is the answer I gave. I ask every member of the House to listen very carefully. The question was: did he have access to any other Australian government money to support his activities in Iraq? Answer: yes.

Mr Rudd interjecting—

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

Mr HOWARD—Yes. Mr Flugge and other members of the Australian agricultural team had oversight of funds for reconstruction of the Iraqi ministry for agriculture and Iraqi Grains Board building and the purchase of communications equipment. All these funds have been duly acquitted. In other words, this is a slur against my colleague the Leader of the National Party.

Opposition members interjecting—

Mr HOWARD—What? He got hold of this money for the National Party? He did not use it for the National Party; it was used for the benefit of the people of Iraq. The member for Griffith is so bereft of relevant questions that he has now resorted to dishon- est slurs on the integrity of the Leader of the National Party.

Mr Rudd—What? He got hold of this money for the National Party? He did not use it for the National Party; it was used for the benefit of the people of Iraq. The member for Griffith is so bereft of relevant questions that he has now resorted to dishon- est slurs on the integrity of the Leader of the National Party.
National Water Initiative

Mr SECKER (3.11 pm)—My question is addressed to the Minister for Agriculture, Fisheries and Forestry.

Mr Rudd interjecting—

The SPEAKER—The member for Griffith will withdraw that.

Mr Rudd—I withdraw.

Mr SECKER—Given the critical importance of water for farmers across Australia and given that I represent all of the Murray in South Australia and vast underground resources, would the minister inform the House of any recent initiatives to protect this valuable resource? Are there any alternative proposals?

Mr McGAURAN—I thank the honourable member for Barker for his question and for his continued strong representation on behalf of his electorate. On this vital issue of water reform, the Commonwealth government has provided the policy leadership and the economic incentive through the National Water Initiative to encourage the states to fully participate and to put their own houses in order. I was intrigued, distressed and dismayed when visiting Queensland recently to hear that Premier Beattie is planning to charge farmers $100 a bore, for each and every bore on their property, claiming that it is a National Water Initiative.

For many of us the Labor Party’s asking for $100 a bore sounds like selling tickets to a Labor Party fundraiser, but for Queensland farmers it is a great deal more serious. But Premier Beattie has gone even further: he is proposing a windmill tax—a windmill management charge. This is not justified or explainable in any shape or form under the National Water Initiative.

Thankfully for Australia’s farmers, not all members of the Labor Party are so out of touch or so arrogant and dismissive of primary producers. I refer of course to the shadow minister for agriculture, the member for Corio, who is not here today. He is facing a preselection in his electorate on the weekend, and he may not be sitting here for much longer. Yet, as a former dairy farmer, the member for Corio, I venture to suggest, is the last of the Labor Party members to have any link with primary production. How many other dairy farmers are there on that side of the House or primary producers—

Mr Brendan O’Connor interjecting—

The SPEAKER—Order! The minister will resume his seat. The member for Gorton will remove himself from the chamber under standing order 94(a).

The member for Gorton then left the chamber.

Mr McGAURAN—The member for Corio is a champion for agricultural issues. He is not always entirely effective but you would not know that from listening to the Leader of the Opposition. He has been asked countless times to indicate some degree of support for the position of the member for Corio. He has never given a straight answer. He will never mention him by name. In case the Leader of the Opposition was not listening to AM this morning, I will remind him of the comments of the member for Corio, who said:

Well I think the leader would appreciate more than anybody else that if you don’t give loyalty you don’t get it. And at the end of the day, it might not be me; it might be the leader.

Those words were from the member for Corio, in conjunction with the member for Batman, the member for Hotham and no doubt the member for Maribyrnong.

Government members interjecting—

Ms Roxon interjecting—

The SPEAKER—The member for Gellibrand is warned. The level of interjection...
from both sides is totally out of order. The minister will be heard.

Mr McGAURAN—The member for Lingiari, who has a great interest in water reform and has spoken often on the subject, said with regard to the preselection war that it was the work of ‘standover merchants, thugs and other sleazebags’. So there you have it: the Leader of the Opposition has done nothing for agriculture. In the absence of the member for Corio the Labor Party will do nothing for agriculture.

Mr Trevor Flugge

Mr BEAZLEY (3.16 pm)—Loyalty lectures, Mr Speaker! My question is to the Deputy Prime Minister. I refer to the minister’s meeting with Trevor Flugge in Iraq in 2003. Did the minister discuss with Mr Flugge kickbacks, his million dollar salary, guns or how he was spending the $4 million worth of Australian government money he had access to for ‘quick-impact activities in Iraq’, as attested to in the audited accounts the Prime Minister referred to?

Mr VAILLE—I have a clear recollection—

Ms Macklin interjecting—

Mr VAILLE—Do you want to hear the answer or not? You are a squawking lot over there. I have a very clear recollection of the meetings I had in Iraq in 2003. In fact on my recent visit to Iraq over the weekend we reflected on some of those activities with both the members of the Australian Defence Force and the members of the Iraqi government, as it was my second visit to Iraq post 2003. While I am answering this question I will take the opportunity of acknowledging and thanking very much the Australian defence forces in Iraq for their efforts today and then. They looked after and accommodated our visit to Iraq to ensure that we look after the Australian national interest in Iraq today, as we did then. I did have a meeting with Trevor Flugge in Iraq. The insinuations being drawn by the Australian Labor Party are absolutely outrageous.

Ms Plibersek interjecting—

The SPEAKER—Order! The member for Sydney!

Mr VAILLE—The comments of the Leader of the Labor Party while I was in Iraq are just as outrageous, and are an insult to the people of Australia. He will live to eat his words. But in answer to his question: yes, I do remember that meeting with Mr Flugge.

Ms Plibersek interjecting—

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

Mr VAILLE—I do remember meeting Mr Flugge at the Ministry of Agriculture in Baghdad at the time, along with the representative from the Interim Governing Council who was looking after agriculture. Because of the efforts of the Australian government, I think that was the first ministry that was up and functioning under the CPA after the war in Iraq. In fact it was noted by the CPA head, Paul Bremer, who said that the Ministry of Agriculture was ‘the first Iraqi ministry building to be functioning and the first to be handed over to the new Iraqi administration’. Australia and its agriculture team in Iraq were congratulated by CPA head, Paul Bremer, on the reconstruction and re-establishment of this critical ministry.

We are proud of what we did as a government and as a nation to help re-establish this country. I conveyed that again to Prime Minister Jaafari and Minister Chalabi in terms of the support we are continuing to give in this fledgling democracy to ensure that it survives.
Mr BEAZLEY (Brand—Leader of the Opposition) (3.20 pm)—I move:

That so much of the standing and sessional orders be suspended as would prevent the Leader of the Opposition moving immediately.

That this House censure the Foreign Minister and Minister for Trade for:

(1) turning a blind eye to cables sent to his/their office(s) that contained hard evidence that bribes were being paid to the Iraqi regime; and

(2) for misleading this House on when he/they first had knowledge of the Wheat for Weapons scandal.

This is the fifth time that an effort by the opposition to censure the government or individual ministers in relation to what is without question the worst scandal in our national political history in living memory has been frustrated by a determination from the government that they will evade a censure motion. It is becoming a feature of the Howard government’s lack of accountability that they will not permit themselves to be subject to the testing of a searching debate on the state of their knowledge and their culpability and responsibility for this dreadful scandal.

They prefer to stand up in this place, beat their chests about their commitments to Iraq now, criticise the opposition for taking the view that this was a bridge too far in foreign policy and the wrong way to go, and refuse to answer questions about their personal and governmental culpability in this scandal. If this parliament cannot have a censure debate upon this motion, this parliament has no capacity to hold the government accountable. It is a serious issue, and when it is refused for the fifth time we know that this is a government that have absolutely no confidence in their capacity to explain things.

The new piece of information from today’s question time relates to the character of the knowledge of Minister Vaile. What Minister Vaile indicated—he got very close to it and he may have something more to say to us later or on a later day—was this: he had a general awareness back in 2000 or 2001 of the character of the complaints that had been raised at that point in time. He puts in his defence a quote from the particular cable which says that the Iraqi office in the UN had no capacity to judge the validity of the claims—that he puts in his defence. Precisely! They had no capacity; they relied on Australia. They relied on the effectiveness of the Australian investigation to determine whether or not they had a breach of sanctions on their hands. So what he used in his own defence in this place in question time is in fact the heart of the accusation against him.

We all remember what it was like back in November when he stood up in this place and said that the first time he became aware of any of this was when Mr Volcker reported. That was a statement of cover-up, pure and simple. He knew a heck of a lot about this a long time before Volcker reported. The Australian public believe that, and they are right to do so.

This is why we have to have the censure motion: the time for squirming and wriggling from this government is over. There have been pathetic hair-splitting and tricky excuses for what is essentially corrupt behaviour. That is enough contempt for this place and for the Australian people from this government. Heads should roll—the trade minister’s head and the foreign minister’s head. For too long, the bucks went to Saddam Hussein. Now the buck stops with Alexander Downer and Mark Vaile. They saw the cables. They knew they mattered. They turned a blind eye.
The trade minister is the biggest problem for Australian farmers since the arrival of the rabbit. My message to farmers is that Mr Vaile has let you down. He is now arrogantly trying to use our farmers as a human shield. He is incompetent and arrogant. Instead of investigating AWB at the time, he and his ministerial colleague tipped them off. The foreign minister is the best friend Saddam ever had. He is a foreign affairs fraud and his career has been marked by serious lapses of judgment. He has a perennial problem with the things that matter, but this was no inoffensive slip of the tongue; this was an ill-advised romp in fishnet stockings. This was about turning a blind eye to $300 million in bribes going to the very dictator our troops were fighting in Iraq.

What mattered here were the bribes to Saddam Hussein, and what did these two ministers do? Did they bring in investigators? Did they hold anyone accountable? Did they thump the desk and say Australia must not fund Saddam Hussein’s evil dictatorship? They turned a blind eye to things that mattered. They are stupid, arrogant, complicit and not fit to represent Australia’s interests abroad.

Yesterday, the ego of the Minister for Foreign Affairs got the better of him—another lapse in Mr Downer’s judgment. He split the beans when he had been misleading so well for so long. He wants to look like he is on top of his portfolio but he just keeps revealing that he is at the bottom of this scandal. The Prime Minister got up in parliament yesterday and said that there is not a skerrick of evidence that the government knew. In a weird way, there is not a skerrick of evidence; there is a mountain of evidence. There is too much evidence piled up for those absurd denials to continue.

They do not want us to only go to the parts of the cables which indicate in very considerable detail the fact that there was a company in Jordan receiving illicit funds in US dollars in clear breach of the sanctions regime of the United Nations. Do not look at that part of the cable, they say. Look at the fact the Iraqi office at the United Nations could not substantiate this—look at that, they said today. Precisely! The office and the United Nations relied on the honesty and integrity of the Australian processes—it is as simple as that.

The UN cops an awful lot of flack around the place, but the UN’s defenders say—and honestly—that the UN is only as good as its member governments. The United Nations is not a country. The United Nations is a collection of countries that does not transgress the sovereignty of each member country, and it relies on the goodwill of its member countries to ensure that the sanctions that all the members agree on are being upheld.

If you go to those cables, you will notice something else apart from the weakness of that essential defence. When the cables refer back to consultations with the Wheat Board, you will notice that there is no record of a hard, tough investigative process being put in place. Instead, there is an immediate assumption that if anything is being done by the Wheat Board it must be at worst inadvertent and that all that is required is to speak to the Wheat Board and say to them: ‘You need to properly explain your contracts. This issue has been raised, and you need to properly explain this issue to the United Nations. That’s what you need to do.’

These events, which have an enormous amount of literature behind them in the cables of the Department of Foreign Affairs and Trade—and I will lay you London to a brick, Mr Speaker, that there are a load more cables than those we have seen already—
rather than showing diligent action on behalf of the Australian government to uphold the sanctions regime to which we had signed up, have much more in common with a tip-off to a gang. That is what the materials that emerge from those cables make this seem like.

What every department requires, when the hard stuff has to be done and the tough work has to be done, is the action of the minister. That is when the minister steps in to make sure the right thing is done. What happened here was that the ministers stood to one side, completely indifferent as to whether or not the wrong thing was being done. That is why, if this parliament is to have any credibility at all, this parliament now needs an opportunity to censure these ministers, to hold them properly to account for the way in which they have failed this nation. They have failed our allies, and they have failed the international organisation to which we have signed up. They have failed the farmers but, above all, they have failed the Australian people in protecting our reputation. This is a massive scandal which they treat as a joke, and they should be censured. (Time expired)

The SPEAKER—Is the motion seconded?

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

Mr VAILE (Lyne—Minister for Trade) (3.31 pm)—I rise to speak in this debate about whether or not a censure motion should be allowed in this place. The Australian government has not failed our allies in terms of the United Nations, it has not failed our trading partners, and it has not failed the wheat growers of Australia who have put a great deal of faith in this government to look after their interests internationally. All the points by the opposition should be absolutely refuted. The Leader of the Opposition mounts his case today for this censure based on information in a series of cables that have become a part of the Cole commission of inquiry. He claims that the government is trying to cover up what it did during the course of the oil for food program, but the government has handed all this information over to the Cole inquiry.

What the cables do prove—and this is what the opposition absolutely ignore in this debate—is that the government did not ignore the issue. The government did not turn a blind eye; the government responded to the request of the UN. The cables indicate this very clearly. The Leader of the Opposition knows this, but he quite conveniently ignores that part of it. When we approached AWB, they categorically denied the assertions and the allegations that the UN indicated that they could not disprove or otherwise. So the AWB categorically denied those allegations that were contained at the time that the information was brought to us from the UN.

DFAT subsequently sought further information from AWB about terms and conditions. This is in the cables that the Leader of the Opposition is referring to. What happened? What did the government do? The government went to AWB and said: ‘You need to provide this information to the organisation that is overseeing these contracts, the Office of the Iraq Program at the United Nations. You need to deliver this information to them to reassure them on these concerns.’ That was done. In response, the people at the oil for food program in the United Nations under the section 661 sanctions committee—the people responsible for running this program, the people who had oversight of it, the people who were supposed to be checking all aspects of this program in the conduct of the contracts—responded in this language: ‘The Office of the Iraq Program has confirmed that this clarifies the matter and removes any grounds for misperception.’ That was in response to the provision of information and
some of the terms and conditions in the contracts that they asked about—the subject of the cable traffic at the time. So, quite clearly, there are no grounds for this censure motion.

The government did not ignore the issue. The government did not turn a blind eye. The government sought information from the private sector body, the organisation that was engaged in the contractual arrangements. It denied any wrongdoing. It refuted the allegations that were being made. Subsequently, when we sought to deliver that information with regard to the terms and conditions—as is quite clearly outlined in those cables that the opposition has, that the Cole inquiry has, that the government has given to the Cole inquiry with a whole heap of information to assist that inquiry to uncover the facts in this whole exercise—the claim and the charge is that the government is covering up, that the government is turning a blind eye. We did not turn a blind eye at the time. We got the information quickly back to the oil for food Iraq program at the United Nations, and then they responded that ‘this clarifies the matter and removes any grounds for misperception’. Far from covering up, far from being of no assistance to the UN, we have assisted the UN. We have sought out the information that was required when they made those inquiries that have been the subject of questions and the debate today.

In terms of mounting the case for a censure motion, the Leader of the Opposition has maintained that the Australian government has failed in its responsibility as a member of the UN, failed in its responsibility as a member of the international community and failed in its responsibility to look after the interests of wheat growers. We have not failed on any single one of those counts. As a responsible member of the international community, we have gone to enormous efforts in recent years to ensure that we play a responsible role. That was clearly outlined to me on my recent visit to Baghdad in discussions with Prime Minister Al-Jaafari, Deputy Prime Minister Chalabi and trade minister Basit Karim. They reflected on the contribution that Australia had made in terms of helping establish a democratic process in Iraq—one that they are rejoicing in and one that we take too much for granted in Australia but one that was certainly a clear objective. They were very complimentary about the way the Australian government has quickly established the Cole inquiry with regard to the whole oil for food program.

Obviously the Iraqi government are interested in the operation of the oil for food program. But I can tell the Leader of the Opposition, without opening up confidential conversations I had in Iraq, that the Iraqi government have far greater concerns about many other countries and institutions than they have about Australia in this matter. That is a fact. That point was made to me while I was in Iraq. They are concerned about many other countries and institutions in this matter. That gives me heart that I am comfortable in what the Australian government have done over the preceding years that cover the time frame that this debate is focused on.

In going to Iraq over the weekend in the interests of Australian wheat growers, we have not failed in our responsibility to look after them. We have not failed to do that. We did see media reports in recent weeks about what the Iraq government was prepared and not prepared to do. Unlike the Labor Party, we are not prepared to stake the future interests of Australian wheat growers on media reports. We are not prepared to do that. We are prepared to travel to different parts of the world to represent their interests, as they should be, in face-to-face meetings with the governments and ministers with whom we are trying to ensure an opportunity for our wheat growers to do business.
That was certainly the case on Sunday, when I spent many hours with Iraqi ministers in Baghdad. They clearly indicated that to me, as outlined in the joint statement that I made with Dr Chalabi after our meeting. I will quote from the statement so that it is on the record. This is in response to the charge that in this whole matter we have abrogated our responsibility to Australian wheat growers. It states:

The Ministers agreed to redouble their efforts to ensure that the mutually beneficial economic relationship continues in an open and transparent way.

In particular Ministers reaffirmed their strong desire for the longstanding and important wheat trade to continue into the future on a secure and predictable basis.

In this context, the Iraqi Government will continue to welcome offers to supply high-quality Australian wheat through participating in competitive tendering in Iraq.

The Ministers agreed that the two Governments should remain in close contact over coming months to ensure the trading relationship continues to move forward.

The Leader of the Opposition knows full well that you need to front up and eyeball people whom you are doing business with—you cannot rely on media reports—and that is what I did and that is the statement that came out of the meeting. I am absolutely confident that, even in the short term, Australian wheat growers will have an opportunity to get into this market. I would like to table a copy of that joint statement by Dr Ahmad Chalabi, the Deputy Prime Minister of Iraq, and me on 26 February 2006, upon my visit and meeting with him in Iraq.

I will just recap in this debate why the government has not abrogated its responsibilities, either internationally or domestically, to the Australian wheat growing community and the Australian public.

We have at every stage responded to requests and, as was clearly indicated by the Office of the Iraq Program upon our delivering that information to them, they confirmed that this clarifies the matter and removes any grounds for misperception. I look forward to the time when the opposition bring up this cable in question time, which has positive advice from the United Nations after the government addressed the issues that had been raised. (Time expired).

Mr Rudd (Griffith) (3.41 pm)—One of the questions that we would like to have answered is: where have all the Liberals gone? Where are the Liberals? They have left you in the lurch, Mark. Not one of them is in the chamber—

Mr Andrews interjecting—

Mr Rudd—You are only a token Liberal at that, Kevin. They have not just left you in the lurch on this one. When you listen to the Prime Minister’s answer carefully in question time today—

Mr Bartlett—Mr Speaker, I rise on a point of order. I draw the member for Griffith’s attention to the fact that there are Liberals in the chamber. His statement that there is not one in the chamber—

The Speaker—The Chief Government Whip will resume his seat.

Mr Rudd—Just like the Liberals let The Nationals answer this question alone in parliament today, they are leaving The Nationals in the lurch on the future of the single desk. National Party members in this House know it, because they listened very carefully to what the Prime Minister had to say.

Why there is a matter of urgency as would warrant the suspension of standing orders
goes not just to the fact that this is a $300 million wheat-for-weapons scandal—the worst in Australia’s history—or to the fact that we have a government which ignored 17 successive warnings and chose not to act but also to our concern that two ministers have misled the parliament of the Commonwealth of Australia. With the first of those ministers, the Minister for Trade, it all turns on a key proposition he put to the parliament. Last year, when this wheat-for-weapons scandal was just unfolding, I posed this question to the trade minister:

When did the minister, his office or his department first have concerns conveyed to them on whether the Wheat Board’s dealings with Iraq were violating UN sanctions against Saddam Hussein’s regime?

What was the Deputy Prime Minister’s answer? He said:

The allegations raised first came to my attention as a result of the Volcker inquiry.

The Volcker inquiry began in April 2004. Honourable members will ask: why is this important? There is of course the general principle that ministers should tell the truth in this parliament—increasingly a novel proposition in the last decade that we have been subjected to in this country. Mr Speaker, that is a core principle which you would agree to as upholding Westminster and everything which is true to it. But there is a second reason why it is important.

What we are concerned about in this $300 million scandal is when the government first knew and why they did not act upon the knowledge of warnings which came in their direction. When did they first know of these warnings? If the warnings came early, then they could have acted early in order to prevent the $300 million scandal from unfolding. The Deputy Prime Minister knew today when the Leader of the Opposition put questions to him that he was in deep trouble—very deep trouble—because, on the one hand, he has this undertaking to the parliament that he did not know anything by way of warnings or concerns until April 2004, but now he has a cable, released through the Cole commission of inquiry, dated April 2001.

What did it have to say? It warned about hard evidence that Iraq was using the oil for food program to breach sanctions and that this was linked to discussions between the AWB and Iraq which they were having at the time and which were known to the government. That was in April 2001. The Deputy Prime Minister’s claim is that he knew nothing until April 2004. That was three years later. The Deputy Prime Minister would have us believe that he had no knowledge of the contents of that cable. Problem No. 1 for the Deputy Prime Minister is that it is on the distribution list as being copied to his office—something he did not want to admit to in the chamber today. Problem No. 2 is that he had a massive Trevor Flugge moment in here today. He had a comprehensive Trevor Flugge moment, because three times he was asked by the Leader of the Opposition, ‘What’s happened to this cable? Did you have any knowledge of its contents?’ and he said he did not.

But, having had his Trevor Flugge moment, he then had, unfortunately for him, an Alexander Downer moment. What happens when you have an Alexander Downer moment? You say too much. As a result of that, in response to a further question from me about an Austrade cable he went on to say that these were certainly known to the government at the time because DFAT was dealing with it. That cable in fact came from earlier, back in 2000. So we have the Deputy Prime Minister saying he and the government knew of these matters back in 2000. It fundamentally contradicts his assertion to the parliament that he did not know about these
matters until 2004. He deserves to be censured. (Time expired)

The SPEAKER—The time for the debate has expired. The question is that the motion to suspend standing orders be agreed to.

The House divided. [3.50 pm]

(The Speaker—Hon. David Hawker)

**AYES**

- Adams, D.G.H.
- Beazley, K.C.
- Bird, S.
- Burke, A.E.
- Byrne, A.M.
- Danby, M. *
- Elliot, J.
- Ellis, K.
- Ferguson, L.D.T.
- Fitzgibbon, J.A.
- Georganas, S.
- Gibbons, S.W.
- Grierson, S.J.
- Hall, J.G. *
- Hayes, C.P.
- Irwin, J.
- King, C.F.
- Livermore, K.F.
- McClelland, R.B.
- Melham, D.
- Owens, J.
- Price, L.R.S.
- Roxon, N.L.
- Sawford, R.W.
- Smith, S.F.
- Swan, W.M.
- Thomson, K.J.
- Wilkie, K.

**NOES**

- Abbott, A.J.
- Andrews, K.J.
- Baird, B.G.
- Baldwin, R.C.
- Bartlett, K.J.
- Bishop, B.K.
- Brough, M.T.
- Causley, I.R.
- Cobb, J.K.
- Downer, A.J.G.
- Elson, K.S.
- Fawcett, D.
- Forrest, J.A. *
- Gash, J.
- Haase, B.W.
- Hartsuyker, L.
- Howard, J.W.
- Hunt, G.A.
- Johnson, M.A.
- Keenan, M.
- Kelly, J.M.
- Ley, S.P.
- Lloyd, J.E.
- Markus, L.
- McArthur, S. *
- Moylan, J.E.
- Nelson, B.J.
- Panopoulos, S.
- Prosser, G.D.
- Randall, D.J.
- Robb, A.
- Schultz, A.
- Secker, P.D.
- Smith, A.D.H.
- Southcott, A.J.
- Thompson, C.P.
- Tollef, D.W.
- Tuckey, C.W.
- Vaile, M.A.J.
- Vasta, R.
- Washer, M.J.

* denotes teller

Question negatived.

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

AUDITOR-GENERAL’S REPORTS

Report No. 31 of 2005-06

The SPEAKER—I present the Auditor-General’s Audit report No. 31 of 2005-06 entitled Performance audit: Roads to Recovery—Department of Transport and Regional Services.

Ordered that the report be made a parliamentary paper.
QUESTIONS TO THE SPEAKER

Question Time

Mr McMULLAN (3.57 pm)—Mr Speaker, I—and I think some of my colleagues here—could not understand a couple of rulings you made today. I wonder whether you could circulate to us an explanation of the rulings you gave in ruling out the second part of the question from the member for Griffith and in your declining to accept the point of order from the member for Grayndler. I did not understand either ruling. I did not seek to dissent at the time because it would have disrupted question time. I wonder whether you could circulate to honourable members an explanation of the standing orders underlining those rulings. I do not expect you to do so now, Mr Speaker, although I would welcome it. If you could circulate it, I would appreciate it.

The SPEAKER—I thank the member for Fraser. In relation to the second point of order, which I believe was the one about tabling a document, I refer the member for Fraser to standing order 2, under the heading ‘Definitions’, where it refers to ‘document’. ‘It means a paper or any record of information and includes’:

(i) anything on which there is writing;
(ii) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them—

and so on. I believe that is why I refused to entertain the point of order and suggested that the member could raise a question with me afterwards. That is the answer to the second part. I will look at the first part.

Questions in Writing

Mr HAYES (3.59 pm)—Mr Speaker, under standing order 105(b), I ask you to write to the relevant ministers for answers to questions placed on the Notice Paper under my name 1451, 1454, 1768, 2116, 2283 to 2295, 2297 to 2320, 2460 and 2760.

The SPEAKER—I thank the member for Werriwa. I will follow up his request.

DOCUMENTS

Mr ABBOTT (Warringah—Leader of the House) (4.00 pm)—Documents are tabled as listed in the schedule circulated to honourable members. Details of the documents will be recorded in the Votes and Proceedings and I move:

That the House take note of the following documents:


Government response to the Commonwealth Ombudsman’s statements—014/05 and 016/05.

Reports by the Commonwealth Ombudsman—Personal identifier 014/05.

Personal identifier 016/05.

Debate (on motion by Ms Gillard) adjourned.

MATTERS OF PUBLIC IMPORTANCE

Trade Skills Training Visa

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

The Government’s neglect of young Australians with the introduction of the Trade Skills Training visa.

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 BURKE (Watson) (4.01 pm)—I want to quote a member of this House who, on 2 February 1992, said in reference to an automobile company that employed 300 people:
They were looking for a tradesperson to do a particular job. They searched Australia and could not find one. They had to convince a tradesperson to migrate from England to fill that position. It is a sad indictment on this government that, after having been in power for 10 years, we have not got those trained tradespeople.

Admittedly, in 1992 when the now Deputy Prime Minister made those comments the government had not been in place for 10 years but rather for nine. But those were the words of the man who is now Deputy Prime Minister. He was complaining, ‘How bad is it that we have to import one tradesperson?’ At the time, no doubt members of the House of Representatives thought the objection was that Australia should be training Australians, but now we realise the problem that government had was that it was importing only one worker. The problem that this government has is that, instead of training Australians, you should import tens of thousands or hundreds of thousands of tradespeople because it saves you from having to pay the cost of training Australians first and training Australians now.

The trade skills training visa has two impacts: the first is that it takes opportunities away from young Australians and the second, in the context of the new industrial relations laws, is that it drives down wages. We had the most extraordinary defence in parliament when the disallowance motion was moved by the new Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs, who is in the chamber at the moment. It is extraordinary because first of all he thought, ‘Let’s just have a go and try to claim this is all about Labor and the unions’—the most bizarre argument when we are actually talking about providing training opportunities for young people who do not have a job. There are not that many people who do not have a job at all and are members of trade unions, but that was lost on the member for Goldstein.

He then went on—and this is the first time any member of the government has done this—to try to justify not advertising the positions locally. Every other member of the government has baulked at this; every other member of the government has tried to fudge it through by pretending that you have to advertise. But, if anyone missed it, on 27 February when we had this debate the member for Goldstein said this:

If they need to advertise to satisfy themselves no Australian is available, they will.

I will tell you Labor’s attitude and it is pretty clear: if you have a job vacancy you advertise it to the Australian people. You do not just go offshore because you know there is no negotiating power once you get rid of the no disadvantage test on AWAs. The government know there is no award system underpinning those wages, so they can go overseas and get somebody who will be so much cheaper for a business. No, we say your starting point is to advertise locally. If you cannot fill the position locally, then you do not say, ‘Okay, that’s it, let’s go straight overseas’; you should actually try to connect Australians to jobs. That is why I said, and I will say it again, that if you have a position available in Ballarat you advertise it first in Ballarat but you also ought to advertise it in Bendigo, Blacktown, Bankstown and Brisbane before you go off and advertise it in Beijing, Bombay and Beirut.

Then we had the Minister for Immigration and Multicultural Affairs saying in the other place, ‘What a terrible thing for the member for Watson to say.’ I took this charge very seriously: she said it was xenophobic. I take that charge seriously. Ministers in this government would know exactly what is xenophobic. If only the person who treats people in detention the way she has had any idea
what the Minister for Health and Ageing was saying in this chamber at the exact same time that she was making that charge. She suggested that I instead should point to what must be major sources of immigration, though I was not aware of this. Blackpool, Brighton and Bristol were the places that the minister wanted me to refer to. I thought, why would she mention those places? Then today a news article appeared in the well-known online newspaper *Blackpool Today*, apparently a very well-known newspaper site in the United Kingdom. The article is dated yesterday but with the time difference it appeared this morning. It refers to a shop owner by the name of Andrew Robb.

I then understood why the minister was talking about the need to point to Blackpool. You think of the wages that the system will create and then realise Andrew Robb is the owner of the Bargain Shop—‘cheaper than cheap’. In *Blackpool Today* he was complaining about what was happening. He said: Obviously it isn’t going to help.

The cheaper than cheap wages that are going to result from this are not going to be helpful to the young apprentices coming here from overseas and they are certainly going to drive down wages for the few young Australians left who are able to get an apprenticeship. The parliamentary secretary thinks not advertising locally is fine. He is the one member of the government to fess up and not have a problem at all if your management decision is that you do not need to advertise locally—you do not need to tell the young people of Ballarat that there is a job available in Ballarat, you do not need to tell the young people of the Tweed that there is a job available in the Tweed and you do not need to tell the young people of Adelaide that there is an apprenticeship available in Adelaide.

That is the attitude of the parliamentary secretary on this, which I think is the attitude of the government. All the others were a little bit too experienced to not just bluff it through, but he decided to be upfront with it. Then he started in his speech to do some fudging of his own—hard to believe, I know. He started to defend the trade skills training visa, which we know from the media coverage has come in and now applies to all of regional Australia at the request of one business. One business requests this visa; it has a devastating impact on training opportunities for young Australians in regional Australia, which happen to be the same areas where youth unemployment is at its absolute highest, and the parliamentary secretary tries to bluff and pretend when asked in an interjection how many companies asked for it. He said, ‘Oh, it was in response to requests from regional industries. I want to acknowledge the initiative.’ Then he names the one company involved. But he said ‘regional industries’. The Deputy Leader of the Opposition then asked, ‘We’ve heard of them. Who else?’ The response was, ‘There is a whole swag of applications for apprenticeships coming in. You can see the list. Go and look for yourself. This is going to be a very popular scheme. I don’t have, off the top of my head, the names of the 15 or 20 companies. No, I’m sorry but those opposite can have access to the list.’ So we rang the parliamentary secretary’s office and asked for the list only to get a call back from Dr Nation, the minister’s chief of staff, to say, ‘What on earth is it that you want?’ The list has not arrived.

I presume the parliamentary secretary was telling the truth and that we can have access to the list he is refusing access to. I presume the parliamentary secretary was telling the truth and did not just feel the pressure of the interjections yesterday. I presume that he did not just feel the pressure of knowing that he is doing something that is bad for young Australians who are trying to get training
opportunities and that he was not just feeling a little bit of pressure about driving wages down in Australia. I presume that he was not just feeling a little bit of pressure about the way in which we are already seeing the cutting edge of the new industrial relations laws come out in the treatment of immigrants who have come here on work visas. We are seeing the first cases of genuine exploitation in the papers day after day and many are in those regional areas. We only have to look at the examples that have been appearing in the *Adelaide Advertiser* so far to see how we are getting the sharp edge of these industrial relations changes coming through. So the parliamentary secretary refers to a list that apparently does not exist because the minister previously had already acknowledged that this was done at the request of one company.

Instead of doing something at the request of one company, Labor says why not do something at the request of 300,000 young Australians turned away from TAFE? Why not do something at the request of young people wanting an apprenticeship? Because when you take an apprenticeship away from someone locally, you are not just saying, ‘Okay, they miss out on a job for a few months.’ You are actually saying, ‘They miss out on a career. They miss out on the trade that comes at the end of the apprenticeship.’ You are actually denying them the path that they are wanting to take for the rest of their life in the name of cheap wages and for what? Simply so that they can give a result to one company—not surprisingly a labour hire company—and one company alone. Three hundred thousand people have been turned away from TAFE since 1998. That is the exact sort of example that I imagine the now Deputy Prime Minister was complaining about in 1992. He looked for a tradesperson to do a particular job, searched Australia and could not find one.

Do not pretend for a minute that you can blame the economy on the reason that there is a skills shortage at the moment. The planning has not been done. There are occupations on the skills shortage list that have been there for 10 years. The planning has not been done. Youth unemployment rates are at the highest in the same regions where this visa will apply. The planning has not been done. There is 35 per cent youth unemployment in regions and they are the same regions from which the parliamentary secretary opposite wants to send those opportunities overseas.

It is completely different to what happens when you have overseas students because you can do that with additional places. You can add places on. But for every apprenticeship, you need an employer and there is going to be a finite number of employers available at any point in time. You do not need an employer for every university place but you do for every apprenticeship. In the same regions where young people are being denied these opportunities, where unemployment rates for young people are the highest in the country, this government says it is okay to have the trade skills training visa. What does it mean? It means an employer can decide that they can get cheaper labour overseas. But they have to get approval. To establish that approval, do they have to advertise the position? No. Do they have to make reasonable efforts to fill that particular position? No. They are not asked to certify that they have made any efforts to fill that particular position. So they are not asked to certify that they have made any efforts to fill that particular position. So they are able to apply to the government, get a visa and deny those opportunities to young Australians. There is no nexus made between people available overseas and the employers so, unless you are a really large employer, you are going to be compelled to go through a labour hire company to find people. That is what this is about. This is part of the push of people onto labour hire companies.
At the end of it we know what will happen. If you have a young Australian in an apprenticeship position then, at the end of their apprenticeship, you have a tradesman or a tradeswoman remaining in Australia. Nine times out of 10, they will remain in Australia. We know full well we will not get those sorts of stats from people who have come from overseas to train. At the end, when you finally have a skilled tradesperson, will our skills crisis be any better? Not by one job. Because you have actually occupied an apprenticeship that you could have filled if you had bothered to connect people within Australia, instead of just making profits for labour hire companies by connecting people from overseas. You end up with a situation where those connections are not made and, instead of having the position filled and having a skilled tradesperson in Australia at the end of the period of the apprenticeship, nine times out of 10 you are going to find they have gone back to the country from which they came. That is not the way to manage a skills crisis.

These people are going to be exploited. We are going to see exploitation on the ground. They have to pay up-front fees. They even have to pay their own employer subsidy. You can imagine the sorts of wages and conditions in those circumstances that are going to be offered on a take it or leave it basis. They will have no negotiating power.

What the Minister for Employment and Workplace Relations, at the table, has done to every young Australian is bad enough where, if you are offered an AWA, you take it or you lose the job. For these individuals, it is, 'Take it or you lose the job and the right to enter Australia at all.' They have no negotiating power. It is going to be a race to the bottom on wages. As far as the government is concerned, I guess it is going to be win-win: save money on training Australians and drive wages down. That is something Labor cannot support and never will. (Time expired)

Mr ROBB (Goldstein—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs) (4.16 pm)—We have just heard another burst of bluster and scaremongering, and nonsense in many respects, in this matter of public importance. The bottom line is that the introduction of a trade skills training visa is demonstrably good for young Australians. It is not a matter of neglect, as is brazenly asserted by opponents who would much rather play politics in this chamber than do the hard yards on new policy work.

Mr Burke—We have.

Mr ROBB—What new policy? What have we heard today or any other day from this shadow minister for immigration? Absolutely nothing. Let me read a quote from the Australian of 15 April last year:

[I] do not oppose fee-paying overseas students taking up apprenticeships in regional Australia as long as it is not at the expense of local students getting their opportunities.

We absolutely agree with that statement, and the training visa gives effect to it. That statement could have been made by the Minister for Immigration and Multicultural Affairs, the Minister for Employment and Workplace Relations or the Minister for Vocational and Technical Education. All three agree, as all on this side agree, 100 per cent with that proposition. But it was not made by them; it was made by the President of the ACTU, the leader of the union movement, Sharan Burrow. In other words, the unions agree with the government on the proposal of this visa.

So why did we have the charade we witnessed here today? It was a charade we witnessed on Monday evening when this matter was debated then. Why do we have all the feigned anger of the shadow minister, the
puffed up indignation, the litany of lies and falsehoods and the predictions of doom and gloom? Does that remind you of something, Mr Deputy Speaker? It is so over the top, so manufactured and so false. I am certain that what we are witnessing from those opposite is a purely political exercise. It is plainly an extension of the campaign of lies and scaremongering we witnessed during the workplace relations debate—month after month of lies and scaremongering. For what reason? I will tell you what the reason is. After a fourth election loss and the leadership meltdown that was Mark Latham, Labor are desperately trying to galvanise their base. If I were them, I would also be doing what I could to breathe some sense of purpose back into a disillusioned base. I understand their motive. I would be looking to do what I could to unite base support around a cause. That is what they have been seeking to do for the last few months—unite their base around a cause to try to give them some heart—but they should be trying to do it around a good and worthwhile cause, not a cause based on lies and scaremongering, not cheap petty politics. I would not base it on lies and scaremongering because, ultimately, it comes back to bite you. All this stuff they have gone on with in this debate, and have done for six months on these issues, when the prophecies prove wrong it will come back to bite them. And proved wrong they will be. If Labor were smart, they would seek to galvanise their base around policies they thought would make Australia a better place.

But it is not happening. It is even starting to worry their own side. We heard the member for Batman belling the cat this morning when he said in the *Australian* newspaper:

> On my own side of the chamber, policy innovation that inspires the people, that puts pressure on the government to perform, and that demonstrates Labor’s capacity to lead the nation in government has also been too rare ... after a decade in opposition, we have plenty of storytellers but not much of a story to tell.

Only 19 Labor members elected in 1996 remain in parliament today and they, together with their more recently elected caucus colleagues, according to the member for Batman, ‘are too focused—by necessity—on internal party dynamics that have a lot to do with factional dominance and little to do with a Labor view of how to make Australia a better place’. Try and spend some time galvanising your base around policies that will make Australia a better place and I think you will start to see a lot more success politically and in every other sense.

All we hear in this debate is a series of falsehoods and misrepresentations. We have heard it again today from the shadow minister. The member for Watson, Mr Burke, has claimed in this place:

> I do not think it is any accident that this visa was introduced at the same time that those industrial relations laws came in.

Again, you are trying to link it to industrial relations; trying to link it to a cause around which you have peddled lies and misrepresentations from the outset. This is false and can be shown to be demonstrably false.

Mr Burke—Was it an accident?

Mr ROBB—You said it is no accident—

The DEPUTY SPEAKER (Mr Barresi)—Order! I remind the member to direct his comments through the chair and to ignore the interjections from the member for Watson.

Mr ROBB—The intention to have such a visa was first announced in April 2005. The workplace relations legislation had not passed the Senate and did not have any prospect of doing so at that time. Consultations on implementation were held with state and territory authorities throughout 2005. State and territory authorities had to be consulted because they are a vital part of the process.
This is ignored again and again in everything the member for Watson has to say.

The fact is that the visa has its origins in representations that were made by Golden West group training, and I am proud to acknowledge their involvement. They are a big employer of Australian apprentices and that has to be recognised. At a meeting in Senator Vanstone’s office in December 2003, and in annual consultations with stakeholders conducted by Minister Vanstone since then, many employers mentioned the difficulty of finding apprentices as a major constraint on their businesses. Discussions with stakeholders on the possibility of something like this training visa, including the TAFE and training sector, were held in 2004. This has a long history and it gives the lie to your suggestion that we are playing politics. We are playing policy. We are trying to do something about the future of Australians, not play politics. Mr Burke has his facts wrong and, in my view, should apologise in the House this week.

The government has implemented this visa after long consultations with many stakeholders, including employers and state governments. Labor always forget that you cannot have jobs without employers—I understand that; I have seen it for years—but it surprises me that they do not seem to have been in touch with state and territory governments, all of which are Labor at the moment. If they had had those discussions rather than coming in here playing politics, they would have properly understood the very hard protections in place for young Australians in this visa. The visas are administered by state governments—people of the same political party as you, who are willing and able to discuss the arrangements in place—and they would have confirmed with you that protections are in place—

The DEPUTY SPEAKER—Order! I remind the parliamentary secretary to address his remarks through the chair.

Mr ROBB—My apologies, Mr Deputy Speaker. The state governments would have confirmed to the shadow minister again and again that there are protections in regard to wages, just as we have seen with skilled workers coming in under the migration scheme—which ministers in Labor governments have been defending all around this country against the false assertions of some of your union bosses. If you had bothered to take the time to speak to your state colleagues, we would not be having this debate and you would not have moved to disallow this regulation.

This government has not let down young Australians. On the contrary, the performance of the Howard government has restored a sense of hope and opportunity to the young people of Australia. Whether young Australians choose to work, study or undertake vocational training, the government has provided demonstrably good outcomes for all of them. Youth unemployment, since we came to office, has dropped nearly 40 per cent at a time when real wages have increased by 15.6 per cent—and the young have shared in that as well. By comparison, the Labor Party record pales into insignificance. In fact, the Labor Party record is embarrassing in comparison to what has happened over the last 10 years for the young people of Australia.

There has been a 122 per cent increase in the number of youth under 19 commencing new apprenticeships since 1996 and they now account for 41 per cent of all apprenticeship starts. The number of school students getting a head start in VET programs has increased by 253 per cent. The government is providing funds to the states and territories to support an initial 167,000 vocational education training places by 2008,
including the establishment of 25 Australian technical colleges. The Work for the Dole program has given young people skills. The Backing Australia’s Future program will provide an additional 39,000 university places. I could go on and on. It is clear that this government has not let down young Australians. This government has given great hope and great opportunity to the young people of Australia.

On skills, we do have a challenge. It is estimated that in five years time we will have 200,000 more jobs than we have people to fill them. That is what you should think about. And why is this? There are two main reasons. One reason is that the economy has been going gangbusters for 10 years. We have unemployment at 30-year lows and we have youth unemployment dropping by 40 per cent. That is one of the main reasons we have a skills shortage. We plead guilty to doing that. We plead guilty to prolonged economic growth. But it has put pressure on the availability of skilled workers. When you have close to full employment, that is what happens. It is not something Labor would identify with. You have had no experience with that situation. You do not understand it. You ought to get out there and get a feel for it. This is what happens with economic growth. You get skills shortages when you have near full employment.

The second contributing factor to the skills shortage is the ageing of the population. Its impact is hugely significant and it is pressing. This was acknowledged by the Leader of the Opposition on 3 October last year when he said we are now experiencing massive skills shortages. It is true. We have had a strong economy and we have an ageing population which is coming in on us. Sadly, that is all the Leader of the Opposition has said about it. He offers no solutions. His shadow minister in the House offers no solutions. None of them offers any solutions. All we hear is carping, scaremongering, misrepresentations and lies about our policies in order to galvanise your base, which is disillusioned and which has lost heart.

The member for Batman had it right. He knows what will give your members heart. What will give your members heart is good policy—something that will turn around the skills shortage. And it is not in one area. It requires a multipolicy approach. All of your shadow ministers should be up at this table giving us policies that will address the skills shortage. That is what we are on about. We have introduced reforms on workplace relations, Welfare to Work, superannuation reforms to encourage older Australians back into the workplace, taxation reforms to encourage older Australians to stay longer in the workplace and huge investment in skills training, which I have just been through.

Ms Owens interjecting—

Mr ROBB—You might laugh. You think there is one little silver bullet. Get out there and get an understanding of the regional apprenticeship visa scheme and immigration. It is a multipolicy approach to solve the challenges that we have in front of us as a country. It is not an exercise in cheap politics, so stop these lies and scaremongering. This training visa contributes importantly to young Australians in many ways. Keeping economic growth in the regions going helps them share in the economic growth that the rest of Australia enjoys. That is a really important contribution. Furthermore, bringing in overseas students to take up apprenticeships will give a critical mass to courses in regional TAFE areas for apprenticeships, which will keep courses going so that young Australians can have access.

Ms Owens interjecting—

Mr Burke interjecting—

Mr ROBB—You do not understand what it is like to come from regional areas. The shadow minister does not understand what it
takess for kids to come down to the city. We want to keep TAFE courses in regional areas. By bringing in students to keep a critical mass, we will protect those courses and we will provide opportunities for young Australians. (Time expired)

The DEPUTY SPEAKER (Mr Barresi)—Order! Before I call the member for Adelaide, I remind the Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and all other speakers who have been taking part in this debate to address their remarks through the chair and to refer to members by their correct title or by their seats.

Ms KATE ELLIS (Adelaide) (4.31 pm)—The government’s neglect of young Australians with the introduction of the trade skills training visa is absolutely a matter of the utmost public importance. The complete neglect of young Australians by this government through this visa is a matter that goes to the heart of the future wellbeing of this country and is a matter that will adversely affect the social and economic security of Australia’s future generations. The trade skills training visa will result in the driving down of youth wages and see young Australians robbed of both work and training opportunities.

This visa is very different from a visa under the skilled migration scheme. This visa headhunts unskilled and untrained migrants to fill apprenticeships and traineeships in regional areas that, in many cases, could be going to young Australians. As a result of this visa, young Australians will miss out because, unlike universities, you cannot just create extra places at TAFE. Every apprenticeship must have available not only a place at TAFE but also an employer who is both willing and able to take on an apprentice. When there are only a limited number of employers who can do this, people will inevitably miss out on a place and on an opportunity. This visa will see that young Australians are denied a place for an apprenticeship, because places will have been filled from overseas. If companies can satisfy their training intake from apprentices overseas, it is logical that opportunities for Australians will disappear.

The government should be ashamed of its blatant and clear betrayal of young Australians through this visa. It should be ashamed to sell out the future welfare and security of our youth simply as a bandaid solution to a problem that should have been addressed a decade ago. Young Australians must be put first. The government’s suggestion that the trade skills training visa is necessary because there just are not enough people wanting to fill apprenticeships and training places is disgraceful. In my electorate, I have spoken to a number of young constituents who are constantly looking for full-time work, job security and a form of training that will equip them for decent future employment prospects. It is absolutely disheartening to see these people locked in a position where they are unskilled and have to rely on casual and intermittent work which not only pays insufficiently but also leaves them with few rights at work and no job security.

The northern and western statistical region of South Australia’s youth unemployment rate for kids between the ages of 15 and 19 stands at 21.8 per cent. I would like to see the Prime Minister come to this area and tell this 21.8 per cent of young South Australians that he is giving away their potential employment opportunities to unskilled overseas labour. The whole of South Australia is classified as a regional area for migration purposes, which means that my own electorate of metropolitan Adelaide, as well as the entire state, will be affected by this visa. Across the nation, we have 193,000 young people who are not in full-time education and not
fully engaged in the labour market. These young Australians, the Australians who are being denied opportunities to improve their lives, are our future. These young people, who are struggling to find secure employment and who are desperately searching for an apprenticeship, training and a career, are the very same people whose training this government should be prioritising.

The government have argued that the trade skills visa has adequate safeguards to protect young Australians. They have suggested that, by requiring any potential employer to demonstrate that there are no local people prepared to take the job, young Australians will remain a priority. However, these safeguards are completely inadequate. I want the government to demonstrate just how this safeguard will work when absolutely nowhere in the employer’s application form is there any obligation or requirement for the employer to advertise locally for the position before employing someone through the program. How can an employer possibly know that no local people are prepared to take on the job if they do not advertise? Even if they did advertise locally, how can an employer from my electorate in central Adelaide guarantee that there are no young Australians in Naracoorte, no young Australians in Murray Bridge, Mannum or Port Augusta—that there are no young Australians who are desperate to undertake such an apprenticeship and who will be sold out by the introduction of this visa? How then can the government possibly insist that young Australians will be put first? The fact is that they cannot. This assurance is just one in a long line of empty and misleading promises from this government, who are out of touch and continue to neglect their training responsibilities. This visa program offers blatant incentives for businesses not to take on young Australian apprentices.

Isn’t the timing of the introduction of such a visa interesting? It happened to be introduced just after the introduction of the so-called Work Choices legislation. This is no coincidence. This is part of the government’s long-term plan to wind back the clock for workers and drive wages down, because, according to the government, that is how Australia must compete in the international labour market. This training visa is a double blow for young Australians, who will already be amongst the hardest hit by the government’s mean, extreme and divisive Work Choices laws.

When negotiating with their employer over pay conditions, many young Australians will be left no option but to take whatever wages and conditions are offered. Now that an employer is able to make signing an AWA a condition of employment, if a local apprentice is offered an AWA which undercuts the award and if that local apprentice declines the offer, the business will then be able to recruit an imported apprentice to fill the so-called vacancy—with pay conditions below what an Australian would accept—on the grounds that the business could not reasonably fill that position.

Let us also be clear that any overseas worker who tries to turn down an unfair AWA would not only lose their position; they would lose their visa. This visa is designed to headhunt unskilled and untrained overseas workers. It is not skilled migration at all. I want to make it very clear that I believe skilled migration has a role to play as a valuable component of Australia’s economic and cultural development. I also believe, however, that it should never be used as the primary source of delivering an adequate skilled labour force. It is deeply concerning to watch this government use the skilled migration program as an excuse to cover up for a complete lack of investment in educating young Australians. Skilled migration must
not take the place of training Australians and it must not lead to the exploitation of overseas workers and the driving down of wages. This, unfortunately but not surprisingly, has already started to happen in my home state.

In Adelaide, Holden’s new plant recently employed 34 European tradesmen to build a key component of their new plant. Over 1,000 workers had recently been retrenched from Holden, late last year, yet local workers were not afforded the opportunity to be trained for this work. On top of this, there have been recent reports in the Adelaide Advertiser of the overseas workers being significantly underpaid and claims that one worker may even have been threatened with deportation because he took a sick day.

I would suggest that this government may be much better placed to ditch the bad policy that is the trades skills training visa and, instead, perhaps start monitoring any misuse of the skilled migration program. It is time that this government started looking out for Australia’s youth. I want to make it clear as I stand here today that the crisis this country currently faces with the skills shortage has not simply arisen today or yesterday and it is not an epidemic that has hit our shores in the last six months. It is an issue that has been a problem over the 10 long years of this government and over that time it has continued to become more serious.

Every single area of traditional trade over the last 10 years has reported a shortage in at least eight of those 10 years. Many skilled occupations have been on the national skills shortage list for almost 10 years. What action have we seen by this government over its 10 years in government to address the skills shortage? We have seen no commitment to education or training; in fact, we have seen the opposite. Now the government’s solution to this problem involves kicking young Australians down, by depriving them of employment opportunities and a chance of improving their standard of living. This visa is a blatant and cruel betrayal of Australia’s youth and of Australia’s future economic and social prosperity. Since coming to power, this government has turned its back on around 300,000 Australians wanting to study at TAFE, young Australians wanting and willing to learn to improve their skills in the workplace and to better their future prospects. Three hundred thousand young Australians have been denied this opportunity.

Mr Randall interjecting—

The DEPUTY SPEAKER (Hon. BK Bishop)—Order! The member is entitled to be heard. The member for Canning will have his turn in a moment.

Ms KATE ELLIS—The contrast between policies on this side of the House and government policies is obvious. Rather than turning our back on young Australians, Labor can offer real initiatives, real strategies and effective policies to aid businesses and equip our future generations with the knowledge and skills they need to survive in a competitive world. The formula is simple: if you invest in education, if you invest in training opportunities and if you support employers, you will not end up with a skills shortage of this magnitude.

For the sake of young Australians, this is absolutely a matter of public importance. The government must discard this ridiculous policy and adopt Labor’s plan to train Australians first and to train Australians now. Training and education are investments in Australia’s economic and social future, but this government is reluctant to pay the bill. It cannot see the benefits beyond tomorrow and this visa is nothing more than a short-sighted quick fix solution. (Time expired)

Ms George—Madam Deputy Speaker, I rise on a point of order. I heard the member for Canning making remarks which I found
to be very offensive, derogatory and unfair. I would like the member for Canning to apologise for the remarks he made and to have them withdrawn.

The DEPUTY SPEAKER—I did not hear any comments that I thought were unparliamentary.

Ms George—He used the word ‘lies’ and inferences were made that impugned the integrity of the member for Adelaide.

Mr Randall interjecting—

The DEPUTY SPEAKER—The member for Canning will let the Deputy Speaker speak. My ruling is that to accuse someone of being a liar is unparliamentary. I think the use of the word ‘lies’ is in a greyer area. I personally did not hear it.

Ms George—I found the remarks very offensive. As a woman sitting here on chamber duty, the nature of the remarks were not only offensive but, in my view, sexist as well.

The DEPUTY SPEAKER—You will have to tell me what they were, because I did not hear them. In the light of not hearing them and your not telling me, I am not able to make a ruling.

Ms George—The word ‘lies’ was definitely heard. I heard the remark: ‘Who wrote the speech for you?’

The DEPUTY SPEAKER—that is perfectly normal debate.

Ms George—Is that perfectly normal?

The DEPUTY SPEAKER—that is perfectly normal debate and interjection.

Ms George—that is not unparliamentary commentary?

The DEPUTY SPEAKER—that is acceptable parliamentary language.

(Quorum formed)

Mr Fitzgibbon—Madam Deputy Speaker, on the point of order, I refer you to page 500 of House of Representatives Practice, which says:

... all imputations of improper motives to a Member and all personal reflections on other Members are considered to be highly disorderly.

My understanding is that the test is that if the member on our side felt aggrieved by the comment by the member for Canning then he should do the honourable thing and withdraw. We invite him once again to do so. It is not a matter of whether the chair believes it was disorderly. House of Representatives Practice is quite clear. Our member was offended by it and he should withdraw.

The DEPUTY SPEAKER—I remind the honourable member that the chair is responsible for keeping order. I did not hear any disorderly wording. I ruled on it before. There is no point of order. I call the honourable member for Canning.

Mr RANDALL (Canning) (4.47 pm)—Obviously we have got a very fragile little petal on the other side of the chamber, who takes—

Mr Price—Madam Deputy Speaker, I raise a point of order. With great respect, on previous occasions when occupants of the chair have not heard the remark they have inquired of the member as to whether or not they made an offensive remark and encouraged them to withdraw. With great respect to you, Madam Deputy Speaker, whilst you did not hear the remark—you are not unique in that—you did not inquire of the member whether he had made an offensive remark and seek his assistance in having it withdrawn.

The DEPUTY SPEAKER (Hon. BK Bishop)—I thank the Chief Opposition Whip. I advise that I did actually inquire of the person making the point of order what it was that the member was complaining about. I received two reiterations of what she considered to be offensive. I ruled that they were
Mr Fitzgibbon—I raise a point of order, Madam Deputy Speaker.

The DEPUTY SPEAKER—The member for Canning will take his seat. I call the honourable member for Hunter on what I hope is a substantial point of order and not frivolous.

Mr Fitzgibbon—Not to prolong the debate any further than it is necessary to take the time of the House—

The DEPUTY SPEAKER—You got the first one wrong, I would remind you, Member for Hunter, so I hope you do better this time.

Mr Fitzgibbon—With respect, Madam Deputy Speaker, if you have a look at page 500 of House of Representatives Practice, that is not true. You did not hear the interjection. The only person who can assist the House at this stage is the member for Canning, who needs to put the case that his interjection was not offensive. He has not been invited to do so. But we will accept your ruling. I am moving on to a new point of order. After you ruled, the member for Canning quite clearly—and everyone on this side of the House—

The DEPUTY SPEAKER—You got the first one wrong, I would remind you, Member for Hunter, so I hope you do better this time.

Mr Fitzgibbon—Not to prolong the debate any further than it is necessary to take the time of the House—

The DEPUTY SPEAKER—I thank the honourable member for his point of order. I do not believe there is a point of order. I think that if, in the rough and tumble of this parliamentary chamber, you cannot handle being called a precious little petal then we have got a problem in this parliament. There is no point of order.

Mr RANDALL—I am a big admirer of petals—not bicycle pedals but floral petals.

The DEPUTY SPEAKER—The honourable member for Canning will proceed with his speech.

Mr RANDALL—I stand here today as a proud member—on the eve of 10 years of the Howard government—of a government which has delivered real changes, real reforms and real gains for the Australian people, particularly young people in Australia. The member for Watson, the mirage from Watson, is a person who I believe is acting in a hypocritical manner. If he were interested in this issue at all, he, as the Labor Party’s spokesperson on migration, would join the Joint Standing Committee on Migration—if he could—and make a contribution. The committee struggled for a while to get a Labor Party member. Their spokesman was not even interested. They had to scout around until they got somebody. So his real interest in the migration committee is only peripheral and superficial, because he does not even want to be in the main committee body of this parliament—he only wants to be the spokesman for it.

Mr Slipper—you’re kidding, aren’t you?

Mr RANDALL—No. He’s not even on the committee yet. (Quorum formed) I am very pleased to address the issue of the trade skills visa. As the member for Goldstein said, the member for Watson obviously is just playing politics with us. He knows in his heart of hearts that this is a very good policy solution for producing more skilled people in the regions of Australia. He is bringing it up as an issue because he knows that he cannot get any traction on any other issue. He is supposed to be the spokesman for the opposition, but at the end of the day he has not really been able to get his head up. He lan-
guishes over in that part of the House; as a result, he has to struggle to get himself taken as relevant.

At the end of the day, we have people like Sharan Burrow, the ACTU president, who says that this is a very good program for skilling regional Australia because it brings a resource to the regions of Australia which is sorely needed. We have the former ACTU president sitting here, the member for Throsby; she disagrees with the current ACTU president, Sharan Burrow.

We know that there is a lot of protection in this. The states have been consulted on this as well. The states are very keen on seeing this introduced into the regions of Australia. Strangely enough, the member for Watson thinks that Blacktown is a region of Australia. Sorry old son, it is not a region of Australia. Have you ever been into the regions of Australia? If you did you would know that there are so few apprentices available in the regions of Australia that this is why they are looking to overseas students to come here, skill themselves, and then receive a range of visa options which they can use to stay in Australia and add to Australian society as well-skilled people in the Australian workforce. We are very pleased to have them, unlike the member—(Time expired)

The DEPUTY SPEAKER (Hon. BK Bishop)—The discussion is concluded.

BUSINESS

Postponement

Ms GAMBARO (Petrie—Parliamentary Secretary (Foreign Affairs)) (4.56 pm)—I move:

That order of the day No. 3, government business, be postponed until a later hour this day.

ADDRESS BY THE PRIME MINISTER OF THE UNITED KINGDOM

Ms GAMBARO (Petrie—Parliamentary Secretary (Foreign Affairs)) (4.57 pm)—I 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 PRICE (Chifley) (4.57 pm)—I want to indicate that the opposition concurs with this motion. We trust that the Prime Minister of the United Kingdom will be treated in this place with the dignity, courtesy and respect that he deserves.

Question agreed to.

COMMITTEES

Public Works Committee

Reference

Mr NAIRN (Eden-Monaro—Special Minister of State) (4.58 pm)—I move:

That, in accordance with the provisions of the Public Works Committee Act 1969, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: HMAS Cairns redevelopment.
Public Works Committee
Reference
Mr Nairn (Eden-Monaro—Special Minister of State) (4.59 pm)—I move:

That, in accordance with the provisions of the Public Works Committee Act 1969, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Construction of housing for Defence at Fairview Rise, Ipswich, Qld.

Question agreed to.

OFFSHORE PETROLEUM BILL 2005
OFFSHORE PETROLEUM (ANNUAL FEES) BILL 2005
OFFSHORE PETROLEUM (REGISTRATION FEES) BILL 2005
OFFSHORE PETROLEUM (ROYALTY) BILL 2005
OFFSHORE PETROLEUM (REPEALS AND CONSEQUENTIAL AMENDMENTS) BILL 2005
OFFSHORE PETROLEUM (SAFETY LEVIES) AMENDMENT BILL 2005

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

JURISDICTION OF THE FEDERAL MAGISTRATES COURT LEGISLATION AMENDMENT BILL 2005

First Reading
Bill received from the Senate, and read a first time.

Ordered that the second reading be made an order of the day for the next sitting.
BANKRUPTCY LEGISLATION AMENDMENT (ANTI-AVOIDANCE) BILL 2005

Report from Main Committee

Bill returned from Main Committee with amendments; certified copy of the bill and schedule of amendments presented.

Ordered that this bill be considered immediately.

Main Committee’s amendments—
(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 person (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 transferor’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 consideration had actually been a transfer by the transferor of the property constituting the consideration.

The DEPUTY SPEAKER (Hon. BK Bishop)—The question is that the amendments be agreed to.

Question agreed to.

Bill, as amended, agreed to.

Third Reading

Ms GAMBRO (Petrie—Parliamentary Secretary (Foreign Affairs)) (5.04 pm)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

COMMITTEES

Legal and Constitutional Affairs Committee

Mr SLIPPER (Fisher) (5.04 pm)—On behalf of the Standing Committee on Legal and Constitutional Affairs I present the committee’s report entitled Review of technological protection measures exceptions, together with the minutes of proceedings.

Ordered that the report be made a parliamentary paper.

Mr SLIPPER—by leave—On 19 July last year, the Attorney-General asked the
The committee to inquire into and report on the issue of technological protection measures exceptions under the Australia-United States Free Trade Agreement. Technological protection measures, or TPMs, are software or hardware components used by copyright owners to control access to copyright material or its reproduction. Examples of TPMs include software encryption, region coding technology and passwords. Under Australian copyright law TPMs are a legitimate response by copyright owners seeking to protect their intellectual property from infringement. TPMs can also be disabled or circumvented by a range of means, including the use of computer programs or devices.

Article 17.4.7 of the free trade agreement requires Australia to create a statutory liability scheme for certain activities relating to the circumvention of TPMs. The article also specifies a number of exceptions to this liability scheme and contains a provision which enables Australia to introduce further exceptions to liability under certain circumstances. The focus of the inquiry by the committee was the question of whether any further exceptions under this provision are warranted within the parameters set by article 17.4.7. The committee also examined other issues relevant to article 17.4.7 that were raised in the evidence.

It is worth noting that the committee faced considerable difficulties in conducting this inquiry. The legislation which will implement article 17.4.7 does not yet exist, and there is very little information on the particulars of this legislation. Indeed, the government still has several months of policy development and consultation to go before the legislation is drafted. Crucial definitional issues remain to be settled, and no interested parties are able to at this stage demonstrate actual adverse impacts as a result of the liability scheme. All of these factors significantly complicated the work of the committee. This said, the committee has assessed the exceptions put to it and has also sought to develop a rigorous interpretation of some of the key requirements for further exceptions under article 17.4.7.

Of the many exceptions proposed during the course of the inquiry, the committee has concluded that several are warranted, including exceptions relevant to important sectors of Australian society and the economy such as education, libraries, cultural institutions, the information technology industry, broadcasting and government. It was also clear from the evidence that the exceptions currently permitted under the Copyright Act 1968 are important and ought to be maintained, and the committee has recommended accordingly. The committee has further recommended that the balance between copyright owners and users achieved by the act should be maintained upon implementation of article 17.4.7.

Region coding of copyright material—used on DVDs, for example—emerged as a prominent issue during the course of the inquiry. While region coding is entirely lawful, the committee was not persuaded by arguments that it is essential for piracy prevention or that it is a genuine copyright protection, nor does the committee see why consumers should be further restricted from enjoying lawfully acquired copyright material. The committee has therefore concluded that the unauthorised circumvention of region coding TPMs should not attract liability under the new scheme. Region coding TPMs should be excluded from the operation of the scheme. If they are included, exceptions proposed in the future for circumventing region coding TPMs should be permitted where they meet the relevant requirements.

I would like to take this opportunity to thank all those who, in writing or in person, were able to provide their views on TPM
exceptions to the committee. The committee appreciated both the quality and quantity of evidence received from a range of groups and individuals in relation to this highly technical and complex inquiry. As chairman of the committee, I would like to thank the inquiry secretary, Dr Nicholas Horne, the committee secretary, Mrs Joanna Towner, and the secondee from the Attorney-General’s Department, Ms Kirsti Haipola, for their assistance.

The committee brought down a unanimous report. That is a fairly powerful indication of how the members feel about the recommendations. The committee believes that its recommendations will materially assist the government in the formulation of the legislation implementing article 17.4.7 and will help to ensure a sensible and balanced liability scheme. The committee is pleased to have had this opportunity to contribute to this evolving area of intellectual property law under the Australia-United States Free Trade Agreement. I commend the report to the House.

Mr KERR (Denison) (5.10 pm)—by leave—May I first acknowledge the work that was undertaken by the Standing Committee on Legal and Constitutional Affairs and echo the sentiments of the chair of the committee that the secretariat performed invaluable work under considerable pressure. Whilst we routinely say these things in the production of reports, in this instance both the chair and I hold the work that was undertaken in the highest regard.

The fundamental starting point of this inquiry was to examine the complexities that arise between the meshing of copyright regimes that are necessitated by the free trade agreement. It is not always easy to mesh quite different legal regimes using different conceptual frameworks. The technical task in doing so is great, but the public policy issues are very important. Every dot and comma in copyright legislation is worth substantial sums of money to those who are in the market of intellectual property. The consequences for this are very important not only for those who commercially exploit copyright product but also for the public, whose access to materials should not be limited beyond that which we have broadly agreed by way of the balances that we have established in this parliament in the past. With that framework in mind, we sought to enter the task.

The chair of the committee has mentioned one issue that took a considerable amount of time but on which our conclusion was clear—that is, where a region coding currently might make it inconvenient or impossible to use DVDs or CDs purchased in one location of the globe without the approach that this committee has adopted. We have recommended that the region coding technological protection mechanisms be specifically excluded from the definition of effective technological measures, a decision which I hope will be welcomed widely by many who would be otherwise inconvenienced by this. I accept that it does have some economic consequence to the market—ers, but what we are seeking to do is not to create artificial monopolies but rather to make certain that there is effective capacity to protect copyright and to ensure that the public is not inconvenienced more than it need be by those provisions.

There is one issue which we draw considerable attention to and use very strong language in respect of that I should mention. It arises because, essentially, the terms of the agreement provide quite inconsistently in respect of a particular matter. The provisions allow for exceptions—they allow the decryption or the accessing of materials irrespective of technological protection devices under certain limited circumstances—yet
there is a blanket prohibition in the legislation which would appear to prohibit the possession, ownership and manufacture of the devices necessary to exercise that right. So, on its face, the agreement appears to say that doing A, B and C is permissible and then says in a different phraseology ‘but the practical means of doing A, B and C are forbidden’.

Clearly that is a conundrum. In the committee’s view, at paragraph 3.118, it is a ‘lamentable and inexcusable flaw in the text of article 17.4.7’; indeed, a flaw that verges on absurdity. What we have sought to do is to direct the government’s attention to the underlying policy that was put forward when this agreement was entered into, and we have drawn attention to the fact that the government stated in its response to criticisms of the agreement that it was entering into that there was no intention to take away from the existing entitlements for circumvention in the areas which were permissible. Bearing that in mind, and bearing in mind that thus far no satisfactory solution has been proposed regarding the lack of capacity to undertake the circumvention permitted by the exceptions under article 17.4.7, the committee is strongly of the view that the government has to devise a workable and adequate way of addressing this problem prior to the implementation of the liability scheme.

We say that those with exceptions will have to be able to lawfully exercise them, whether according to a statutory licensing scheme or according to some other mechanism of approval regime. Any lack of a solution will seriously endanger the viability of the many exceptions permitted under the agreement.

So those who are particularly interested in the area of copyright will find much in this report—much that they will agree with and much that they will contest, depending on the position with which they commenced and the interests they represent. But the committee has done its best to try to reflect the balances struck by the parliament in the past. It has recognised that some issues, particularly those regarding time-shifting and coding restrictions between geographical territories, are ones which most members of the public would prefer to be removed from copyright protection. We have tried to address, in a way that allows this parliament to give notice to the executive, the need to find some solution to the conundrum of how to deal with permitted exceptions, exists but no means of giving effect to those exceptions exists in a practical way.

I commend the report to the House, to the government and to the community. No doubt it will engender considerable further debate. We still do not have the legislation. I thank my fellow committee members, and I again refer to the work of the secretariat. They were under considerable time pressure and they did excellent work in preparing this report.

Mr SLIPPER (Fisher) (5.19 pm)—by leave—I move:

That the House take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

SCHOOLS ASSISTANCE (LEARNING TOGETHER—ACHIEVEMENT THROUGH CHOICE AND OPPORTUNITY) AMENDMENT BILL 2006

Second Reading

Debate resumed.

The original question was that the bill be now read a second time. To this the honourable member for Jagajaga has moved as an amendment that all words after ‘That’ be omitted with a view to substituting other words.
Mr HENRY (Hasluck) (5.19 pm)—As I recall, I was speaking just before question time and had remarked, as the member for Jagajaga had just come into the House, on her criticism of the Howard government. I remarked on its fantastic performance with respect to education and additional funding in support of education across the board. Immediately prior to my contribution the member for Brisbane made some comments about how important it is to spend money on education and training, and that you cannot spend too much. I agree with that. I think the Howard government has demonstrated that time and again since 1996.

In particular, I mention an initiative that will be a fantastic opportunity for many young Australians in developing their skills—that is, the Australian technical college. This is another great example of how the Howard government is using innovation in developing skills in education and in providing opportunities for young Australians to get out into the workplace and enjoy a successful and productive life and career by obtaining the education and skills they need.

Certainly I have had considerable experience in the skills development and apprenticeship training area over a fairly lengthy period of time, with apprenticeships and traineeships in the building and construction industry. I know only too well the great satisfaction that many young people in Australia get out of undertaking an apprenticeship and going on and becoming a tradesman, and in many cases going into small business. This is the whole point of the Investing in Our Schools program: it gives school communities and our broader community the opportunity to set their own infrastructure priorities, without being constrained by the bureaucracy, the state education departments. This program allows for investment of up to $150,000 in each school, on top of its normal funding.

The Commonwealth has had to do this because the state Labor governments are just not putting sufficient money into school infrastructure. For example, in my own electorate, Gosnells Primary School and High Wycombe Primary School have been begging the state for some time now to allocate resources to fix up the toilets—an essential service that needs to be there for hygiene and the normal process of human life. And yet the state government is doing nothing about it. As has so often been the case, the Howard government has been identifying these needs at schools, seeking the support of the community and providing funding at the local level, because the state governments just are not doing their job.

The member for Brisbane had the audacity to talk about dirty deals being done with respect to these funding arrangements and somehow implied that Labor held electorates have been disadvantaged. There has been similar criticism from the member for Jagajaga. That is an absolute joke. This funding program is the most open and transparent program. It is available to all schools across Australia. It is effective and cost-effective; it is the best bang for your buck. These grants are assessed by fully independent panels and the Australian government has accepted the panels’ recommendations in full. Members opposite are trying to give a helping hand to their state counterparts—and they certainly need it—who are very disappointed that they cannot get their hands on this money as it goes through the processes. This money goes straight to the schools, with no state ministers to muck around with it or funnel it into their pet projects. Schools are getting the full bang for their buck out of these programs.
How can this funding be a dirty deal? In my electorate, High Wycombe Primary School has received funding to the tune of $72,253. This school happens to be—as I said before—in the state electorate held by the Western Australian Treasurer and Deputy Premier, Eric Ripper, who has just announced this week a record half-year surplus of over $1 billion, but who cannot provide funding for schools in his own electorate. In the latest round of funding from this program to my electorate, Gosnells High School, which I mentioned before, has received $150,000. Gosnells Primary School received $69,459; Gooseberry Hill Primary School received $146,960; Caversham Primary School received $150,000; Helena Valley Primary School received $99,500; Huntingdale Primary School received $147,000; South Thornlie Primary School received $63,000; and Woodbridge Primary School received $107,690. That is a new school in the electorate in the state seat of Midland. We have a senior cabinet member of the state government who is not providing the sorts of resources to these schools that should be provided. They are relying on the Commonwealth to provide this support. It is an abrogation of their responsibility to the community, to the school children across Australia and to Western Australia particularly.

Yule Brook College in Maddington received $72,000. That is an exceptional primary school, and is again in a safe Labor seat. Every single one of those schools, as I have mentioned, is in safe state Labor seats. Only two schools are in Liberal held electorates. That is the sort of situation that the member for Jagajaga and the member for Brisbane are being critical of. They are critical because we are supporting Labor constituencies and their schools in state Labor seats, ensuring that we pick up what the state government have not picked up.

The only dirty deals around here are the ones done between the trade unions and the Labor Party. We again notice the absence from the House of the member for Hotham and the member for Corio, members of this House who have to pick up on these dirty deals to ensure that they have the opportunity to take up their seats on the opposition benches in the future. Labor is doing deals to dump sitting members and replace them with union hacks. That is not surprising, really. Ask the member for Hotham and ask the member for Maribyrnong and they will tell you what it is like—

Ms King—I rise on a point of order. I ask you, Madam Deputy Speaker, to draw the member back to the question before the chair.

The DEPUTY SPEAKER (Hon. BK Bishop)—The material that he is using is relevant.

Mr HENRY—I am in the process of concluding my remarks. It is important to draw attention to these issues. Members opposite want to be critical and talk about dirty deals. The only dirty deals that are done in this House are done on that side of the parliament between sitting members and their union mates.

This bill will do a lot to help schools all around Australia, but particularly schools in Hasluck like Corridors College, which I mentioned in my opening remarks earlier. The bill will provide better opportunities and more choices to young people, particularly those kids who might otherwise fall by the wayside. I commend the bill to the House.

Mr BRENDAN O’CONNOR (Gorton) (5.28 pm)—I thought it was important that I made some contribution to the debate on the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006. On 9 November I asked the then minister for education a
question about the particular funding that has been subject to much discussion during the debate on this bill. I asked the then minister for education to provide a breakdown to me of each electorate across Australia that received funding for government and non-government schools. The breakdown allowed the shadow minister and other members of the opposition to clearly see that there has been a distortion in funding towards and in favour of government electorates when compared with opposition electorates. This is a serious charge.

We are asserting that the government would manipulate the funding in order to provide more money for constituents in government held electorates as opposed to opposition held electorates. This comes off the back of the ‘regional rorts’ affair that was raging last year, quite rightly pointing to government misbehaviour and levels of corruption that occurred during the course of the funding applications to that department. I think the Labor Party made it very clear and confirmed the view that was held by the public that the government had indeed pork-barrelled Commonwealth money to provide electoral favour in the last election.

Whilst I am happy to concede that there has been money allocated to all constituents that made applications—and I am also happy to concede that there are some significant sums of money going to opposition held electorates—it is important to note that, when you look at the average amount of money under this program going to government seats compared to opposition seats, the government seats fare considerably better. It seems that the money allocated to coalition seats was almost double that for Labor and Independent seats. Of course, you have to take into account the fact that there are more coalition seats but, even once you factor that in, when comparing opposition to coalition seats it is clear that more funds have been provided to the government held seats. That is an issue that the shadow minister for education and Deputy Leader of the Opposition quite rightly raised in her contribution to this debate. It is a very important matter of ensuring that the government is accountable and that it makes its decisions on Commonwealth funding allocation based on merit and on requirements of school children across the country—not on the electoral needs of a political party that wants to sustain itself in government with spin and pork-barrelling. That is why it is important for me to make a contribution to this debate.

I also would like to talk about my electorate of Gorton. We were indeed successful in the applications made, but there were some question marks over another type of grant application. I have been in contact with the minister’s office and have asked the department why a decision was made not to provide a particular grant to Caroline Springs College regarding out of school hours care. It seems to me that the grounds for one of their applications were very strong indeed. The format of the application and the reasons for seeking the grant were stronger than other applications I have witnessed and, I am sure, far stronger than many other applications from outside of my electorate that were forthcoming as a result of this program.

Mr Slipper—Did you contact the minister?

Mr BRENDAN O’CONNOR—Yes, to answer the question of the member opposite, we contacted the then minister’s office. I hope the new Minister for Education, Science and Training will attend to that matter, if it had not already been determined by the previous minister. Caroline Springs College is a wonderful school. It is located in an area where there is not only a primary Catholic school, Christ the Priest Catholic Primary School, but also another independent school,
Mowbray College. The amazing thing about those three schools is that they share resources and also land. There is a great harmony amongst the three schools in the way they look after children and ensure children from each of the schools work and play together.

I would hate to think that, in one of the fastest growing areas of Melbourne—and certainly one of the fastest growing areas of the electorate of Gorton—Caroline Springs College is neglected because of a bureaucratic decision not to allow a grant. On the face of it and after discussions I have had with the principal, Gabrielle Leigh, and other colleagues of hers at that school, I cannot see any reason for that grant not to be forthcoming. I hope, therefore, if that decision has not already been reversed, that the minister's office and indeed the department review that decision. If that has already occurred—if the decision has been reversed and the funding has been provided to them—and I have not been informed, it has happened very recently and I would welcome it.

This is such an important area of the western suburbs of Melbourne and one of the fastest growing suburbs of Melbourne. It would be awful to send such a message to such an innovative school. It is a school that collaborates with two other schools—one a Catholic primary and the other an independent school—in a way which I think is a template for other areas where there are schools within the same location. It would be awful to think that the college would miss out. As a result of population growth in that area of Melbourne, Caroline Springs College has outgrown its first campus and the second campus is coming along very well. But, because of the exponential growth that is occurring in that area, resources have to catch up to the quickly increasing population growth and density. I think it is incumbent upon local, state and Commonwealth governments to be aware of the growth in that region and to ensure that funds are provided so that western suburbs children do not miss out.

I make that plea in this place via you, Mr Deputy Speaker Somlyay, to the minister. I hope the plea is heard and that the claim for the application to be reviewed will be attended to. Before Christmas, I gave a promise that I would do everything I could to ensure that the decision would be reversed. We did make contact with the department and the minister's office, and we await their decision.

I will finish on the fact that the government has a charge to answer: when you look at the average amount of funding going to coalition seats compared with that going to Labor and Independent seats, you find that a higher level of funding is being provided to government seats. It is something that the government has to explain. There may be reasons that are yet to be uncovered by the shadow minister for education and others; but, until we are provided with them, we will assume and, as a result, conclude that the government is pork-barrelling certain areas—

Mr Farmer—That's completely untrue!

Mr BRENDAN O'CONNOR—The parliamentary secretary at the table wants to intervene. He does not want to get up on his feet.

Mr Farmer interjecting—

Mr BRENDAN O'CONNOR—Now he wants to shout, because I guess that is the nature of the parliamentary secretary. It may well be that the parliamentary secretary's electorate has done very well. I have already suggested to him that I am aware of many applications in other areas that have been successful, but the fact remains that, on average, when you compare coalition seats with
Labor and Independent seats, coalition seats have done better.

I invite the parliamentary secretary and the minister to provide a genuine reason at some point in time for that—a reason other than pork-barrelling and looking after their own interests instead of the interests of school children in this country. But, on the face of it, there is on average a disproportionate amount of funding going to those seats, and that has to be answered. I am sure that is of concern to many parents who send their children to primary and secondary schools in this country, because they would expect the government to spend money on schools based on the merit of an application and the needs of the children, not based on such motives as the electoral need of the government to sustain itself in government. That is yet to be answered. It has not been properly answered by anyone on the other side, and the quicker that is done the better off we will all be—but I will not hold my breath for an answer to that.

This is not the only program where money has been disproportionately spent on marginal government held seats in order for the government to maintain those seats. There is no doubt that the government looks after the marginal seats, not the marginalised. It has an obsession with looking after its own, and it is about time it turned its attention to the children of Australia and their schools.

Mr SLIPPER (Fisher) (5.40 pm)—The explanatory memorandum points out to us that the purpose of the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006 is to amend the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act 2004, which provides funding for Australian government programs and financial assistance to the states and territories for government and non-government schools for the 2005 to 2008 quadrennium.

I am passionate about education, and I have to say that I think Australia has been singularly fortunate that, during the last 10 years of the coalition government in office, we have had three very effective ministers for education. I refer, in particular, to Dr David Kemp, the former minister and now retired; the now Minister for Defence, the honourable member for Bradfield; and the new minister, the honourable member for Curtin, who was recently appointed to that post.

I think those who are parents are passionate about education. The children of Australia are our nation’s future, and I do not believe that this issue ought to be politicised. The honourable member for Gorton spoke at some length, accusing the government of pork-barrelling—spending excessive amounts of money in government electorates, particularly marginal government electorates—and he somehow seemed to suggest that we were putting the interests of government members ahead of the interests of the children of Australia.

I do not think he made the charge out successfully at all. In fact, he highlighted how the system is working when he referred to the Caroline Springs school in his electorate. He said that that school put in what he thought was a good application and, inexplicably, it was rejected. He also pointed out that he has been to see the former minister and that he is hoping that the new minister will reverse that decision upon the representations being made by him. From the words that he uttered, he seemed to be enormously optimistic that that decision was about to be reversed. If he is correct and the application is worthy—I certainly hope that the honourable member is correct—he is saying that
this system is open and transparent and that it works.

Ministers for education act on the basis of recommendations from bureaucrats. Bureaucrats consider applications, and ministers make final decisions in most cases. In some cases, the decisions might be made by those who are not elected. But, ultimately, the buck stops at the minister’s desk. My experience of ministers for education and, indeed, of the Parliamentary Secretary to the Minister for Education, Science and Training, who is seated at the table, is that, if you have a good case and you see the minister, regardless of the political party from which you emanate, you will get a hearing.

It seems that, from what the honourable member for Gorton told the House only a couple of minutes ago, he has had a good hearing. He has been there to re-argue the case for the Caroline Springs school. He thought that maybe the former minister had signed off on a reversal of the decision. He said that, if the former minister has not, he is optimistic that the new minister will do that. He said that he has not been notified of a decision—that is possible, because it sometimes takes a while for these things to flow through. What he is really saying is that we do have a system that works. Not everyone is always going to be happy with every decision made by the government. We have finite funds. The funds have to be spread equitably.

I think it is quite wrong to suggest that the government would favour schools within government electorates, because that simply walks away from the reality that parents resident in one federal electorate do not necessarily send their children to schools within that electorate. You find that parents vote with their feet. There are good government and non-government schools, and in many cases you will find that those parents will not look at federal electorate boundaries when deciding where to send their kids to school. Sometimes you will find that people who live in a Liberal or National Party electorate will send their children to school in a Labor electorate, and it is therefore in my view inconceivable that the government would possibly make decisions on the basis of the electoral boundaries within which a particular school is situated.

I have been reminded that the current Minister for Immigration and Multicultural Affairs was also the Minister for Employment, Education, Training and Youth Affairs, and she was a very fine occupant of that office as well. I am pleased to speak on this bill. I am very proud of what we have achieved in the area of education over the last 10 years. I am very proud of the government and non-government schools we have in the area I represent—and it is of course contiguous with the area that you represent, Mr Deputy Speaker Somlyay. We have had very good quality government and non-government schools during the period that we have been in office. I am proud that millions and millions of dollars have been poured into the Sunshine Coast and hinterland areas as far as schools are concerned. That indicates to me, as a parent and as an elected representative, that this government is continuing to deliver for the students of this area. In fact, I see the deputy serjeant here and I know that her brother is a very fine teacher at Caloundra State High School. That is a very good government high school within my electorate which has received assistance from this government over the years.

The bill before the House will further strengthen the government’s support of all schools in that it provides for the automatic allocation of general recurrent funding for those non-government schools that are devoted to meeting the needs of students with emotional difficulties—those facing social and behavioural challenges—who are at risk.
of dropping out of the normal schooling system. I have always been one to support the notion of giving students every possible opportunity to achieve all that they can on the educational front. That is a wonderful investment in an even better Australia as the years go on. The provisions in this bill do that for students facing additional challenges and back up the support that has already been given by the Australian government to students in my electorate. Parents of struggling students have been offered tutorial vouchers that are designed to fund extra tutorial support for students outside school hours to enable them to overcome particular learning hurdles and improve their educational outcomes.

The Investing in Our Schools program has been widely welcomed in my electorate. So much money is poured into schools in my electorate it is probably impossible in a 20-minute speech to quote every last dollar that has been granted by the government to the parents and students of the electorate of Fisher. For example, just last September students and staff at seven schools shared in grants totalling $210,000. The funding program is designed to deliver much needed projects to school communities. This scheme is especially significant because it will fund projects that have been identified by the school communities themselves as being critical to their schools. In September funds were allocated to Buddina State School, which received $34,010 to pay for extensions to the computer lab; Currimundi Special School, $42,453 for the installation of air-conditioning; Eudlo State School, $26,411 for extensions to the school tuckshop; Golden Beach State School, $11,250 to help with planning for a multipurpose area; Montville State School, $32,200 for an extension of covered walkways—and I can see you smiling, Mr Deputy Speaker Somlyay, because while Montville State School is technically within my electorate I suspect that most of the students there reside in yours; Mooloolah State School, $42,372 for outdoor shaded sports, play and learning activity area; and Talara Primary College, $21,957 for improvements to shade structures and sporting infrastructure.

Projects such as these, although often desperately needed by the schools, never seem to make their way onto the state government priority lists, and school communities must often face the long and arduous task of raising the necessary funding themselves. The Australian government recognises the importance of providing schools with facilities that will enhance the education and wellbeing of students. The Investing in Our Schools program builds on the $1.5 thousand million already allocated by the Australian government for school capital projects over the next four years. In November, numerous schools were assisted through the capital grants program for schools.

Four schools shared in over $1 million in funds: Pacific Lutheran College, which received $450,000 to construct six general learning areas, an administration area, a computer laboratory, store rooms, student and staff amenities and other items; the new Caloundra City School, situated in Pelican Waters, to construct a chemistry laboratory, a physics laboratory, general learning areas, a hydroponics room, chemical storage room, home economics room, preparation kitchen, staff room and other items; the Sunshine Coast Grammar School, $60,000 for construction of four general learning areas, a computer lab and staff room, two store rooms, staff amenities and other items; the Sunshine Coast Grammar School, again with the construction of two primary general learning areas, a teacher’s office and other items; and Caloundra Christian College, $78,100 for the refurbishment of two science laboratories and a science preparation room,
the conversion of an under cover area to a primary general learning area and an extension to a science laboratory.

I was pleased to announce further grants of over $370,000 for much needed projects at the Caloundra Christian College, for construction of a multipurpose covered area, and Sunshine Coast Grammar School. In November, the government announced 564 extra places in my electorate for before school, after school and vacation care. This was the second highest allocation in Australia behind the allocation for the electorate of Groom. Assistance was also extended to help through programs such as the Healthy School Communities program. This included grants of up to $1,500 to encourage schools to implement systems that encourage healthy eating.

Schemes in my electorate include the funding of Ananda Marga River School in Maleny to support the implementation of a healthy school canteen policy by purchasing equipment for the production and safe storage of healthy foods. The funds for Caloundra State School will provide training for students and volunteers in food safety and the principles of good nutrition. Government funding for Caloundra Christian College will be used to support the implementation of a healthy school canteen policy by purchasing equipment for the production and safe storage of healthy foods and to develop and implement a breakfast program for students, parents and community members. The grant for Caloundra City School will help develop and implement a breakfast program for students, parents and community members and will be used to purchase fresh fruit and vegetables for health snacks during activities after school hours. Chancellor State College will be allocated funds to purchase fresh fruit and vegetables for healthy snacks during activities after school hours.

The funds for Currimundi Special School will be used to buy fresh fruit and vegetables for healthy snacks during school hours so students can run a juice bar three times a week. The funds for Glenview State School will support the implementation of a healthy school canteen policy by purchasing equipment for the production and safe storage of healthy foods and to develop and maintain a vegetable garden which will be used to reinforce the healthy eating curriculum. The grant for Kawana Waters State High School will help to host a healthy dinner for students, parents and community members and demonstrate how to prepare healthy food alternatives, and the funds for Pacific Lutheran College will be used to encourage healthy-eating resources for curriculum based activities.

These allocations of funds reflect the ongoing importance that the government places on students, learning outcomes and school environments. The Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006 will further improve the situation and provide further student support and further support to the families of Australia. I have to say—and I probably should not admit this in the House—that I have a reasonably high opinion of the honourable member for Jagajaga, perhaps more than some colleagues have, but I am disappointed that the honourable member sees fit to move two fairly spurious amendments. The member ought to take note of the facts and perhaps ought to be a bit more enthusiastic in her support for the very many education initiatives of this government. I commend the bill to the House.

Ms JULIE BISHOP (Curtin—Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues) (5.54 pm)—I take this opportunity to thank all members of the House who took part in this debate. I particularly
want to thank the members of the coalition who provided most thoughtful and considered contributions: the members for Canning, Bass, Ryan, Riverina, Cowper, Hasluck and Fisher.

The Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006 contains measures that will provide increased Australian government funding to meet the immediate needs of school communities throughout the nation. Under our government, all Australian schools have been funded at record levels. Through increased financial assistance to schools, particularly schools serving the neediest communities, the government seeks to improve the outcomes from schools and thus provide a brighter future for all Australian students.

This bill contains measures that will enable more funding in 2006 to directly benefit schools and students in response to the actual needs of schools. Over $186 million for small scale infrastructure projects in state government schools is being brought forward from 2008 to 2006. To meet the overwhelming response to the Investing in Our Schools program, under the program the government is providing $700 million to deliver small scale projects which will improve and enhance the infrastructure of state government schools, in accordance with priorities identified by the school communities.

This program has proved enormously popular. I am delighted that the parliamentary secretary, the Hon. Pat Farmer, is in the House for he has been a great champion of this program and has assisted enormously in its delivery. More than 8,300 funding requests were received in 2005 from state government schools. These consisted of over 4,800 applications received in round 1 for grants of up to $50,000 and over 3,500 applications in round 2 for grants of up to $150,000.

I am delighted to report to the House that schools in every single federal electorate across Australia have been allocated funding through this program. I reject completely the baseless—and I might say vindictive—claim by the Labor Party that there is any bias or sorting of this program or that funds are being directed to coalition seats. That is outrageous.

Independent state based assessment advisory panels, consisting of school principals and parents, were established to assess applications. They were assisted by guidelines provided by the Department of Education, Science and Training. Neither the Australian government nor the state government have a vote. The member for Jagajaga ought to note that these panels were not looking at electorate boundaries when they put forward their assessments; they made their assessments solely on schools' needs. This shameless Labor attack is in fact directed at the people on these independent school and parent panels.

If there are more schools in one electorate then there is more likelihood that more schools will apply for funding; therefore, more funding might be applied to schools in that electorate. This is not rocket science. It is a fact—one that we rejoice in on this side of the House—that the coalition holds more seats than the opposition. If there are more schools in coalition held electorates and there are more coalition held seats, of course the figures are obvious. So the claims are totally baseless. Take Queensland, for example, where 25 per cent of funding has gone to ALP seats. That is in line with the number of seats that they hold. It is the same in Tasmania where ALP-held seats received more than 53 per cent of the funding. Let me take the Northern Territory—67 per cent of funding in the Northern Territory went to the ALP
held seat. The member for Jagajaga has led this charge for Labor. Let us look at her electorate of Jagajaga, which was allocated over $880,000 through the program to help schools in her community.

To put this in perspective, my electorate was allocated $315,000. I have no complaint, but that was almost one-third of the amount that schools were allocated in Jagajaga. I think it is a sad reflection on the member for Jagajaga. She complains about the program, yet her electorate has been allocated almost three times the amount of funding for schools in my electorate—and I think that says it all. I would also draw to her attention the fact that her electorate has 49 schools and mine has 58. While the member for Jagajaga complains, it is interesting to note that many of her colleagues are deathly quiet. I do not hear the member for Canberra, for example, condemning the $900,000 allocated in her electorate to local schools. I do not hear the member for Bendigo complaining about the $1 million allocated for schools in his electorate.

Let us not forget that this program came into being after urgent need was identified in the state school sector due to the chronic neglect of state government schools by state and territory governments. Already more than $73 million has been paid to schools for much needed projects—basic infrastructure such as airconditioning, shade structures, computer equipment, library resources, classroom improvements and playground equipment. Funding is being brought forward from 2008 so that state government schools do not have to wait for funding for much needed infrastructure projects. These are projects which just do not get priority from the state governments. Let me use a school in Jagajaga as an example. It received funding to repair an oval that is more than 30 years old. Due to the financial restraints imposed by the state Labor government in Victoria, the oval has received minimal maintenance. I have been advised that the surface is rock-hard and uneven, resulting in students sustaining frequent injuries when playing ball games or participating in athletic activities. Also, there are no goalposts on the oval for children to play football and soccer—which is unusual for a school in Victoria. This is in the electorate of the member for Jagajaga. Does the state government in Victoria just not care?

When was the last time the member for Jagajaga wrote to her state Labor counterparts on behalf of schools in her electorate calling on them to properly fund schools? In many cases schools have been seeking funding year after year but have been knocked back by state governments. One school advised me about requesting funding from its state government for a decade without success—and the Labor members talk about a delay in the delivery of this program. We are talking about schools that state Labor governments have kept waiting for years for funding. That is why the Investing in Our Schools program is so important: it responds to the needs of school communities now; it does not make them wait 10, 20 or 30 years. Having received reports like these from principals and parents, I am staggered by the negativity and the lack of support for this program by Labor, but particularly by the criticism from the member for Jagajaga.

She was rather keen in her speech to offer me some advice. I suggest that she spend less time sitting in her Parliament House suite and more time visiting local schools and talking to students, parents and teachers to hear how valuable this program is to them. I suggest the member for Jagajaga urge her state counterparts to meet their responsibilities for funding state government schools properly. This program is unique: it is giving parents and teachers the opportunity to tell the Australian government directly the needs
of their schools. It is time for Labor to stop criticising the hardworking parents and principals in these groups who have been involved at all stages of the development and implementation of the Investing in Our Schools program and whose only aim is to provide the best possible learning environment for their students.

The government supports the provision of funding for schools on a needs basis, and this principle underpins the Australian government funding for schools. It has always been the intention of the Australian government to provide maximum general recurrent funding to special schools. Under the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act 2004, special schools are funded at the maximum recurrent grant rate. A school is classified as a special school if it is recognised by the state or territory education minister as a special school and provides a special education program. In some states this recognition does not extend to schools that primarily cater for students with social, emotional or behavioural difficulties or who are at risk of leaving mainstream schooling. The amendments to the act correct this anomaly and fulfil the intention under the SES funding arrangements of providing maximum general recurrent funding to this very important class of non-government schools.

The pilot Tutorial Voucher Initiative and other responses to improve the literacy levels of Australian students are yet another example of this government responding to the abject failure of state governments to adequately resource state government schools or respond to the learning needs of their students. The Tutorial Voucher Initiative has successfully assisted some 6,200 students nationally during 2005. This valuable assistance was provided through $700 worth of one-to-one tuition in reading. Of these students, 5,443 completed a full course of tuition. There was a high level of community interest in the pilot. The department’s national hotlines have received over 10,000 calls about the pilot since it was announced in 2004 and the program has been very well received by those who participated. The findings from the independent evaluation already show that 87.7 per cent of parents who responded to the parent/care giver survey were satisfied or very satisfied with the pilot overall. Thirty-eight per cent of participating parents nationwide responded to the survey and over 80 per cent of those felt their child had improved in reading and enjoyed reading. Eighty-five per cent of responding parents felt their child had increased in confidence in reading as a result of the tuition. Sixty-nine per cent of responding tutors felt most or all of the students they tutored had improved in reading and most students appear to have improved between their pre- and post-tuition assessments.

All state and territory education ministers agreed at the Ministerial Council on Education, Employment, Training and Youth Affairs in May 2005 that they would directly contact parents with eligible students or, where this was not possible, the school principals would make that contact. In states where parents were contacted in a timely way by the state education authorities, the take-up was high. In New South Wales, where parents were contacted directly, the take-up was 70 per cent of eligible students. In contrast, 12 per cent of eligible students in Victoria and 18 per cent in Queensland registered. Why would that be? Children in Victoria and Queensland were disadvantaged by the failure of the Victorian and Queensland governments to do what they agreed. In Victoria letters were sent to parents after the closing date for the pilot. In Queensland they did not even bother to send letters.

The Australian government intends that children in those states who failed to get
what they had agreed to give them and who were unable to get help with their reading under the pilot Tutorial Voucher Initiative in 2005 will be able to do so. Many eligible parents and their children missed out on getting any reading assistance not through any fault of theirs but due to the inaction of state governments. So, as a matter of good faith, the government is making available funding this year to students who missed out on the valuable assistance. The bill will ensure that funding from the pilot program will be available in 2006 to provide assistance for students who most need extra support.

This bill responds to the specific needs of schools and school communities. The government will continue to identify and respond to community aspirations for Australian schools to ensure that our students are well prepared to participate fully in Australian society and contribute effectively within an international context. I commend this bill to the House.

Question put:

That the words proposed to be omitted (Ms Macklin's amendment) stand part of the question.

The House divided. [6.12 pm]

(The Deputy Speaker—Hon. AM Somlyay)

Ayes............. 82
Noes............. 55
Majority........ 27

AYES

NOES

Ms MACKLIN (Jagajaga) (6.19 pm)—I move:

Schedule 1, after item 20, page 6, (after line 19), insert:

20A After subsection 120(6)

Add:

(7) The Minister may make a determination authorising payment for the purposes of this section to one of the following:

(a) an approved authority mentioned in section 9;

(b) a nominated authority mentioned in section 10;

(c) an approved government school community organisation mentioned in section 11; or

(d) any other person or body that has met national standards for educational quality and financial and management probity.

(8) The regulations will specify the content of the national standards described in subsection (7)(d) following consultation with state authorities for government and non-government schools, national and state professional teaching associations and accreditation authorities and national parents’ associations.

The amendment, if passed, would in part protect the quality and integrity of projects supported under section 120 of the principal act. I reiterate for the benefit of members that Labor is supporting the Investing in Our Schools program because we recognise the need for our schools to have increased capital investment. Of course, we also recognise the importance of the involvement of parents. The point that we are trying to get across in this debate is not that schools do not need the money or that parents should not be involved—they should—but that we want to make sure that schools get the money when it is promised. They have not been receiving it in a timely fashion. We also want to make sure it is delivered to those schools where it is most needed. Just in case anyone was under any misapprehension, I just wanted to reiterate that point.

This amendment is about the need to bolster the operation of one of the schemes being considered as part of this bill—the Tutorial Voucher Initiative. The advantage of the amendment I am moving tonight is that it would apply to all projects funded under what is called the grants for national projects element of the broader Commonwealth Literacy, Numeracy and Special Learning Needs Program. I outlined in my earlier remarks the need for reform in the way that this kind of program is administered. There has been far too much scope under the current legislation and administrative guidelines for funding to be wasted. We have seen that particularly with the appointment of the Progressive Learning Co., which was the broker delivering the tutorial voucher. This company has a very poor record of delivery, and the government should be trying to make sure that it does not continue. This amendment would help that. This broker, Progressive Learning, seems to have no understand-
ing of the way that schools and school systems work. It has certainly failed to deliver because we have seen only 12 per cent of eligible students in Victoria, for example, getting the help they need to improve their reading literacy.

Unfortunately, in her summing up, the Minister for Education, Science and Training fell back on the tried and true method of this government, which is to blame the states. Unfortunately, in this case, the brokers responsible for this scheme in Victoria and Queensland have not been able to make sure that the children who needed this money actually got it in a way that meant they got extra tutorial assistance to help them to read after they had failed to meet the benchmark tests when they were at the grade 3 level. This amendment would give some protection to the future operation of the Tutorial Voucher Initiative and, as I said, other related programs funded under ‘Grants for national projects’ at column 6 of the table in part 1 of schedule 9 of the principal act. This element will more than double to over $19 million in 2006—so it is a very substantial amount of money—from moving unspent money from 2004 and 2005 as covered in this bill. This is a lot of money, so we do need to make sure the funding has protection and that it is spent wisely and strategically. We are certainly very concerned about whether that has been the case over the last couple of years.

Some of the unspent money should be given to schools and systems for them to spend directly on students. Especially the students who have missed out should be a priority in the use of these funds. We have children who are now sitting the grade 5 test who should have had the money two years ago. They certainly should be the priority. They cannot be asked to wait for another round of calling for applications, tendering for brokers, searching for tutors and checking their qualifications, their experience, their child protection records and so on. (Extension of time granted) We need to make sure that the professionals who deliver these tutorial schemes have adequate qualifications and appropriate skills. We also have to protect the integrity and probity of the individuals and agencies who have been funded with an allocation of public money to deliver this literacy support. The whole purpose of this amendment is to deliver this type of protection.

I acknowledge that existing authorities, whether they be schools or community bodies mentioned in sections 9, 10 and 11 of the principal act, already meet the conditions for the receipt and delivery of Commonwealth funds for schools; so we are not suggesting that schools would be affected by this amendment. But we also know that, unfortunately, there are instances where brokering agencies—in this case literacy tutors—need to meet the same standards of financial integrity as other recipients of Commonwealth grants. Most importantly, these brokers have to be responsible for the quality of the tutors they contract for this literacy support. The tutors must satisfy the professional teaching standards that are required of all teachers. The principles set out in the National Framework for Professional Standards for Teaching, endorsed by all ministers, including the Commonwealth minister, would be a useful starting point. The best way to develop such national standards is to ask those in the states and territories—in the schools, the classrooms and the accreditation authorities—to advise on what would work.

This amendment is being put forward in a spirit of goodwill. We do want to make sure that this money is well spent. We do want to make sure that the people who are going to be contracted to deliver the literacy programs have adequate qualifications. When the standards are ready, the parliament could have the opportunity to consider the issue through
regulations. That would give the government the flexibility it needs to deliver the program in a timely way while at the same time protecting parliament’s right to approve or change it. I commend the amendment to the House and hope it will be received in the manner in which it is put forward.

Ms JULIE BISHOP (Curtin—Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues) (6.27 pm)—The member for Jagajaga has fallen into her own trap of identifying the two providers, Queensland and Victoria, as the states where the parents were not informed by the state governments in a timely manner. In trying to limit the Australian government’s capacity to make the most appropriate arrangements to deliver much needed assistance to students, it seems that the member for Jagajaga, as this amendment illustrates, does not understand the processes and structures of the Schools Assistance (Learning Together—Achievement Through Choice And Opportunity) Act 2004. Labor’s proposed amendment either tries to deliver what is already possible under the act or is a nonsense.

The arrangements that are currently in the act outline the processes for entering into arrangements with non-government schools and non-school organisations to deliver much needed educational services and support to Australian schools and students. The arrangements are robust. They include the need for these organisations to enter into agreements with the Australian government that outline financial and educational accountability requirements. The amendment is fundamentally flawed as it refers to authorised payments to non-government bodies while the entire schools assistance act, including section 120, is structured around payments to the states for non-government bodies. Even so, the provision would not add anything to the current position under the schools assistance act because, as identified in sections 7(1)(a) and 7(1)(b) of the act, payments to relevant authorities are already possible.

Ms MACKLIN (Jagajaga) (6.28 pm)—We certainly are aware that the government can provide this literacy support directly to schools in either the government or non-government sector now—and I made that clear in my remarks. I certainly hope that is the intention of the Minister for Education, Science and Training so that those children who have been waiting years for this literacy support will get it and get it quickly. I think the quickest way of delivering it will be to deliver it through government schools, non-government schools or the big non-government schools system. If that is what the minister has in mind, that is good and I am very happy to hear it. What we are trying to do through this amendment is not get in the way of that. It will not get in the way of the minister doing that if that is what she thinks is the quickest way to deliver the support. What we are trying to do is make sure that any private organisations that are going to become brokers for this money actually meet the probity rules that apply to other organisations under the act. Plainly, the minister has not accepted the amendment in the way in which it has been proposed. That is very disappointing. All I can say is that I hope she is going to take the opportunity that the act does provide to deliver this money through schools. In that way the money will get to the students very quickly.

Question put:

That the amendment (Ms Macklin’s) be agreed to.

The House divided. [6.34 pm]
(The Deputy Speaker—Hon. IR Causley)

Ayes………….. 54
Noes………….. 80
Majority……… 26

AYES
Adams, D.G.H. Albanese, A.N. 
Andren, P.J. Bevis, A.R. 
Bird, S. Bowen, C. 
Burke, A.E. Burke, A.S. 
Byrne, A.M. Danby, M. *
Edwards, G.J. Elliot, J. 
Ellis, A.L. Ellis, K. 
Emerson, C.A. Ferguson, L.D.T. 
Ferguson, M.J. Fitzgibbon, J.A. 
Garrett, P. Georganas, S. 
George, J. Gibbons, S.W. 
Gillard, J.E. Grierson, S.J. 
Griffin, A.P. Hall, J.G. *
Hatton, M.J. Hayes, C.P. 
Hoare, K.J. Irwin, J. 
Kerr, D.J.C. King, C.F. 
Lawrence, C.M. Livermore, K.F. 
Macklin, J.L. McClelland, R.B. 
McMullen, R.F. Murphy, J.P. 
O’Connor, B.P. Owens, J. 
Plibersek, T. Price, L.R.S. 
Ripoll, B.F. Roxon, N.L. 
Rudd, K.M. Sawford, R.W. 
Sercombe, R.C.G. Smith, S.F. 
Snowdon, W.E. Swan, W.M. 
Tanner, L. Thomson, K.J. 
Vanvakiniou, M. Wilkie, K.

NOES
Abbott, A.J. Anderson, J.D. 
Bailey, F.E. Baird, B.G. 
Baker, M. Baldwin, R.C. 
Barresi, P.A. Bartlett, K.J. 
Billson, B.F. Bishop, B.K. 
Bishop, J.I. Broadbent, R. 
Brough, M.T. Cadman, A.G. 
Ciobo, S.M. Cobb, J.K. 
Dutton, P.C. Elson, K.S. 
Entsch, W.G. Farmer, P.F. 
Fawcett, D. Ferguson, M.D. 
Forrest, J.A. * Gambaro, T. 
Gash, J. Georgiou, P. 
Haase, B.W. Hardgrave, G.D. 
Hartsuyker, L. Henry, S. 
Hockey, J.B. Hull, K.E. 
Hunt, G.A. Jensen, D. 
Johnson, M.A. Jul, D.F. 
Katter, R.C. Keenan, M. 
Kelly, D.M. Kelly, J.M. 
Laming, A. Ley, S.P. 
Lindsay, P.J. Lloyd, J.E. 
Macfarlane, I.E. Markus, L. 
May, M.A. McArthur, S. * 
McGauran, P.J. Moylan, J.E. 
Nairn, G.R. Nelson, B.J. 
Neville, P.C. Pearce, C.J. 
Prosser, G.D. Pyne, C. 
Randall, D.J. Richardson, K. 
Robb, A. Ruddock, P.M. 
Schultz, A. Scott, B.C. 
Secker, P.D. Slipper, P.N. 
Smith, A.D.H. Somlyay, A.M. 
Southcott, A.J. Stone, S.N. 
Thompson, C.P. Ticehurst, K.V. 
Tollner, D.W. Truss, W.E. 
Tuckey, C.W. Turnbull, M. 
Vaile, M.A.J. Vale, D.S. 
Vasta, R. Washer, M.J. 
Windsor, A.H.C. Wood, J. 

* denotes teller

Question negatived.

Bill agreed to.

Third Reading

Ms JULIE BISHOP (Curtin—Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues) (6.40 pm)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

TAX LAWS AMENDMENT (2006 MEASURES No. 1) BILL 2006

Second Reading

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

That this bill be now read a second time.

Mr FITZGIBBON (Hunter) (6.40 pm)—The Tax Laws Amendment (2006 Measures No. 1) Bill 2006 is another typically complex
tax bill. It contains four schedules that will give members an opportunity to have a free-ranging debate in a number of areas of tax administration. The first schedule deals with the tax treatment of foreign income for temporary residents and is driven by Australia’s desire to improve our international competitiveness in attracting skilled people to our country—typically, but not exclusively, people in senior management. The second schedule deals with black-hole expenditures. The third provision deals with those schemes so familiar to so many backbenchers, and indeed frontbenchers, in this place—the mass-marketing schemes, which produce so many victims in this country. The fourth deals with the GST and its application to mobile phone products. So there is an opportunity to have a free-ranging debate in a number of areas of taxation administration.

I will begin by saying a few things about tax administration in this country, on this the eve of the 10th anniversary of the Howard government. You would have to say, Mr Deputy Speaker, that it is not a happy anniversary in that regard. We have seen many recent examples of tax administration gone bad in this country, and I will give a couple of examples of that as I begin my contribution to this debate. The first point I want to highlight is the GST which, despite the government’s view that it has been a highly successful tax—although I saw the Treasurer on the weekend qualifying that somewhat, very interestingly—and one that has not been the burden on Australian taxpayers that some predicted it would be, is still not without its problems. That point is underlined tonight by the very fact that we are again dealing with a schedule in a bill which again seeks to amend the GST and, to say the same thing, correct the GST as it applies to a particular area of business and the economy.

The GST does continue to pose a problem for our community, in particular for the small business community. I am very happy to accept that the government has worked very hard at improving the way in which small businesses remit GST—I think the business activity statement is much better than it was when first introduced—but it does not mean that there are not more opportunities for improvement. It certainly does not mean that that process—that is, the collection of the GST, the paperwork and the remittance of the GST—does not still pose big problems for the small business community. Let us never forget that, basically, while there may be some case for a broad based consumption tax—as an economy we find a greater contribution coming from the services sector—it is inherently regressive. A flat tax on everyone regardless of their ability to pay is inherently a regressive tax, even if it might be an essential one given the nature of our economy.

So these burdens on people still remain. And we should not forget the 2,000 small businesses that are being forced to the wall by the Australian Taxation Office as a result of their sometimes very aggressive pursuit of small business taxation debts. I am not suggesting for a moment that we can afford to be any less disciplined in our approach to small business debt. If we were to do that we would not be doing small business any favours at all because that would of course promote a more lazy approach and create a greater temptation for small business to use GST collections as a means of overcoming short-term cash flow problems.

Notwithstanding that, the fact remains that many small businesses do find it very tempting to use GST receipts as a means of dealing with short-term cash flow problems. Unfortunately, they sometimes get themselves into trouble by doing so, because another unexpected expense comes along and they find themselves at the end of the quarter unable to meet their GST obligations. We can-
not have unqualified sympathy for these people, but we do need to take a reasoned and sensible approach to the collection of these debts. It is much better to have a small business still in operation with a debt to the tax office and receiving the interest on that debt than to have a small business go under and not contribute to the Australian economy and not employ people. This is a real concern for small business, and these concerns have been highlighted by the Inspector-General of Taxation, Mr Vos, in recent times. We cannot continue with this one size fits all approach to small business ATO debts. We have to take a more individual approach to dealing with small business and to working out how we can best get them through those difficult times.

The second area I want to go to is the cash economy. I like many today was surprised to learn that the ATO has basically run up the white flag on the cash economy, saying that it is impossible to accurately predict the value of the cash economy and that, therefore, if you cannot do it accurately there is not much point in doing it at all. I beg to differ on that. Ken Henry would tell us that he does not always get his forecasts on the budget right but that he still has to have a go, and it is not a reason not to have a go. Without some sort of forecast we do not have a benchmark against which to begin. I notice that in today's Sydney Morning Herald there was a very good summary of this issue. We can see in that article, as we so often see, estimates that the cash economy might be costing Australian taxpayers some $3.4 billion annually. That is a huge amount of money. It is an area that we simply cannot afford to put aside and accept as being too hard to deal with.

I think we have to work much harder at that. In the Australian community all those people doing the right thing do not want to see the tax office declare that it is all too hard, that it is too hard to measure, and therefore we should not be setting ourselves goals. I do not think that is good enough. If you look at areas in the UK and in the US you can see they do things somewhat more enthusiastically. I think that, at a time when we are talking about a review of tax and international benchmarking, we should be making the effort to benchmark ourselves in that area as well.

I want to go back to my first point for a moment. We should also be striving to benchmark the tax burden and compliance burden on small business. This is a critical area, and it is important that we do that. We know how the comparative measures between nation states for big corporate tax and individual tax can be difficult. It is also difficult for small business. We do know that in some nations you have differential tax rates for small businesses when compared with their larger counterparts. There are all sorts of initiatives. In Australia we have the entrepreneurial tax offset, which is very tightly targeted at a very small end of town. In a sense that is a differential tax application in itself. It is an indication that the government is prepared to look at these things, and I think it needs to have a look at that situation as well.

The third point I want to raise is the compliance cost burden on individual taxpayers, which is enormously high. I am sure of one thing: the benchmarking study by Mr Warburton and Mr Hendy will show that the compliance cost burden for individuals in this country is much higher than it is certainly in the United Kingdom and much higher than it is in the United States. But we need to again have a good look at small business and what their compliance cost burden is.

I note that the New South Wales Chamber of Commerce has recently estimated that
small business in Australia devotes about 40 hours a week to compliance measures, and that must be very high by international standards. It is a good time to remind ourselves on this 10-year anniversary of the Howard government that it was in the lead-up to the 1996 election that the now Prime Minister, Mr Howard, promised to cut red tape for small business by 50 per cent. What a farce that turned out to be. That must surely be a commitment that the Prime Minister now regrets.

The fourth thing I want to raise is the problem that the tax office is experiencing in an administrative sense. There is no doubt that the ATO is underresourced and that staff are overworked in key compliance areas. The removal of staff from the serious non-compliance unit to Operation Wickenby really highlights some of the pressures that the tax office is under. The recent funding injection for agencies in relation to this operation shows how underresourced the ATO has been in the area of investigation of major fraud involving overseas tax havens. There have been major inconsistencies in the ATO’s enforcement of settlement processes. The most obvious example of that in recent times is the treatment of Mr Rob Gerard in that recent debacle and controversy surrounding his appointment to the Reserve Bank board. We have seen no action taken in a legal sense against Mr Gerard, but we do see many small businesses on a regular basis being forced to the wall. We see many individual taxpayers aggressively pursued by the tax office, and we did not see too much sympathy for those victims of the mass-marketing schemes that I mentioned earlier. So consistency from Tax is very important, but we on this side acknowledge that we will only get consistency when the ATO is properly resourced.

As an extension of my attempt to portray the contrast between the treatment of some and the treatment of others, I note again what I think is a ridiculous proposal by the tax office to ring small business people at home at night time and at dinner time pursuing small business debts. There is a time and a place for the collection of those debts and that is during business hours and at the workplace from which people operate their small business. I accept that some people operate their small business from home, but there is a time and a place for contacting those who do not, and I have made this point before.

The reality is that most small business people have a partner, and often the partner at home or working elsewhere is not intricately involved in or aware of the operation of the small business. If a small business operator has a problem with the tax office, they do not deserve to have the tax office ringing them at home and informing their spouse or the partner of the difficulties when as far as we or the tax office know the partner may not be aware of the difficulty. It might be a difficulty the owner of the small business is very confident of getting through, and unnecessarily their partner is brought into the mix. That is very disappointing and for some families could be very distressing.

The fifth thing I want to touch on is the complexity of the Income Tax Assessment Act, now running to about 9,000 pages. Another early commitment from this government was to reduce the complexity of the tax act. It is at least one-third larger than it used to be. About a third of the tax act is now redundant and non-operational. That adds enormously to the complexity of the system. The government needs to go further in repealing both the inoperative provisions and the unnecessary operative provisions in the tax act.

The sixth thing I want to mention quickly is legislative fumbling, as I call it. I have been in this portfolio for just over a year now
and in that period we have consistently seen errors coming from the government in technical terms as these complex tax bills come forward. In fact, a quick count by my office indicates that the government has found it necessary to repair about 14 tax bills after they have been introduced into this parliament. We are very happy to take the credit for pushing for some of those changes. We have been able to use the Senate committee process very effectively in teasing out the technical errors in these bills and forcing the government to correct them in this place. On that basis, I hope the government, despite its majority in the Senate, will not seek to constrain our capacity to use the Senate committee system as an opportunity to further delve into tax bills and to further test their integrity, their efficiency and their effectiveness, and therefore restrict our opportunity to push for changes as a result of those findings.

The seventh thing I want to talk about is the tax loophole that has come to light as a result of the AWB inquiry. I can foreshadow that during the consideration in detail stage of this bill I intend to move a technical amendment in an attempt to align the Criminal Code in this country with the Income Tax Assessment Act. At the moment, the Criminal Code in this country succinctly defines a facilitation payment by requiring that it be of minimal value whereas, unfortunately, the tax act makes no attempt to do so. Theoretically speaking, any ‘facilitation payment’ that successfully runs the gauntlet of the Crimes Act will almost certainly pass through the net of the tax act because there is no definition in that act.

The AWB case was a serious event involving some $300 million. We concede that the $300 million payment was not claimed as a facilitation payment; it is more likely that that payment was claimed as a trucking expense. But we are not dwelling on that in this amendment that I am foreshadowing; we are worried about the future. If we identify a hole in the tax act and put forward suggestions to close that hole, then it is appropriate that the government support us. I will be moving that amendment in the consideration in detail stage and I will be inviting the government to support that amendment. If they are not prepared to support that amendment—because they only support their own ideas—I invite them to come back later with their own amendment and the opposition will be very happy to support it.

On this matter, I have to remind the House that Australia is a signatory to the OECD antibribery convention of 1997, which calls on bribes to be made illegal and therefore not tax deductible. The convention raises significant criticisms of so-called facilitation payments. The words used in the convention are that such payments are ‘a corrosive phenomena’. Such payments are effectively small bribes used to smooth the wheels of government.

Earlier in the week when speaking on another tax bill I said that from an ethical perspective we probably should not be extending tax deductibility to any facilitation payments, because a facilitation payment is typically a corrupt payment to a corrupt official in another nation state to get something done that would not ordinarily be done or to get something done more quickly. Ethically speaking, by making these payments all we are doing is perpetuating those corrupt processes in those other nation states. Having said that, we accept that, in an imperfect world, facilitation payments are necessary for Australian corporations to do business in some of these other countries and we accept therefore that tax deductibility should be extended to them. However, we must define them. We must be true to our obligations under that OECD instrument. Therefore, as a nation and as a parliament we should be striving to do all we can to keep those facili-
tation payments in check, to keep them small and to confine them to areas that Australians generally would see as acceptable for what needs to be done to carry out business in those overseas nations.

I am happy to return to the schedules of the bill. As I have said, there are four of them, and the first one deals with the treatment of foreign earnings for temporary residents. This is designed to make it more attractive for temporary residents to come here to work and to make a contribution to our economy. On that basis, the opposition supports the schedule. Australia currently imposes somewhat tough measures on nonresidents or temporary residents who work in Australia but who have significant foreign sourced income. These provisions have had a negative impact on the sourcing of foreign executives and some skilled professionals like accountants, and of course engineers, which are so important at a time when we are experiencing high growth in the resources sector and the like.

Also under the current provisions, a resident who becomes a non-resident triggers a capital gains tax event, and deemed disposal rules apply when and if they leave the country. I think this is fairly draconian, and I am not surprised to see the government removing this provision. Therefore, the opposition is happy to support it. The schedule has three effects. Firstly, it removes the deeming disposal rules for temporary residents for assets without a connection to Australia without the five- or 10-year rule outlined above. Secondly, foreign sourced income for temporary residents is excluded for income tax indefinitely. On that point I should make it clear for those in the House not fully aware, up until this bill becomes law the exemption for that foreign sourced income only lasts for four years. This bill will extend it indefinitely. Thirdly, as a result of the bill, temporary residents do not pay tax on interest income received overseas. These measures have the strong support of the business community. Moreover, their implementation will ease the current skills crisis we are facing as a nation. There are also economic benefits associated with reducing impediments to skilled foreign employees taking up positions in Australia. This will, in some measure, boost labour productivity in important sectors.

The second schedule relates to black hole expenditures. This is an interesting one. Schedule 2 targets black hole expenditures, which are those which are basically considered legitimate but fall outside the scope of the rules for deductibility. This bill really only extends deductibility for expenses associated with setting up a now defunct or changed entity. This is not a measure about the carrying forward of losses, of course, but about deductibility of expenses for an entity that is not now in existence. The expenses do not meet the carry forward loss provisions, so some tests need to still be met to claim the deduction.

What I find very curious about this schedule is that we are told on the quiet that this is about James Hardie and the compensation fund set up to compensate the victims of James Hardie, but there is no reference anywhere in the bill or in the explanatory memorandum that this is designed to help victims of James Hardie. There are a couple of things I will be doing when the Minister for Revenue and Assistant Treasurer sums up this bill. The first thing I will be doing is seeking assurances from the minister that this new provision is not loose in integrity terms. We have had a limited opportunity to look at these provisions. We do not want to stand in the way of anything that is required to be done to ensure that that compensation fund is in place and available to victims of James Hardie but, at the same time, we obviously see that this cannot be restricted to James
Hardie. This is going to apply to any corporation, any business entity, that might be looking to make better use of black hole expenditures. We see very little in the EM or the bill that assures us that it has been done tightly and is not going to be open to abuse.

That is the first thing we will be asking the government to do: clarify some of the integrity issues for us. If we cannot get some decent answers on this then we might have to consider a Senate committee having a better look. We are not comfortable with letting things go through that could be open to abuse, but, if this is about James Hardie, we do not want to be doing anything to delay the bill. Maybe the minister when he sums up can put our collective minds at rest and give us some assurances that the integrity measures have been looked at closely and that it is not going to be open to abuse.

The other thing I would like the minister to do is to clarify whether this is about James Hardie. I think it is fair to say we have had the nudge and the wink, and every indication has been given to us that it is about James Hardie, but we have had no such assurance. I can only wonder if that is because the Treasurer in this place on 28 November 2005 made a great virtue of a commitment that he would not be moving to amend the tax law to assist James Hardie in its attempts to secure tax deductability of its compensation payments. Yet we are told on a nudge and a wink that that is exactly what the schedule in this bill is designed to do. So I invite the Minister for Revenue to come clean. We are happy to support it with the relevant assurances on the integrity measures, but come clean: if it is about James Hardie, just say so. It is pretty simple. If the Minister for Revenue does not simply say, ‘Yes, it’s about James Hardie,’ he will have failed in his obligation to introduce transparency into this process.

The third schedule of the bill will be of interest to many members of this place, and that is a move to impose tough penalties on the promoters of mass marketing schemes. Up until now so many of us have had constituents who have fallen victim to mass marketing arrangements and who have received very limited sympathy from the tax office, but the promoters of the tax schemes—people who drew them into these inappropriate schemes—have been getting off scot-free. I want to say this again in here: I know there are a few around this place who do not have sympathy for these people. They generally expect people to be as clever as they are, and they like to rely on the old adage of ‘If it sounds too good to be true, it is too good to be true and you should not be involved in it.’

It is just not that simple for many of the people who were targeted by the promoters of these schemes. My electorate is a perfect example of this. It is an electorate where you have early school leavers who have secure,
high-paying jobs in the coal mining industry. They were deliberately targeted by the promoters of these schemes. These guys are not financial gurus; they are hardworking coal-miners. They saw rulings from the Australian Taxation Office, assurance that these schemes were legitimate under the tax law. They sought assurance on those rulings and they signed up to those schemes. These people are not tax rorters. They are victims of some very corrupt people—people who are prepared to risk blowing the life savings of other people so that they can make a quid. This schedule is about going after the people who have done those terrible things to the many victims of those schemes. I have to say that it will not help the victims, but they might get some sense of comfort from the fact that the government is finally moving to ensure that those people are pursued.

The provision is not as tight as we would have liked it to have been. Under this new schedule there is a risk that it could pick up people who are not intended to be picked up—for example, an accountant who says, ‘Yes, I think this is a pretty good scheme; it looks safe for you and you should participate in it,’ but they do not constitute a person who is actively promoting the scheme. On that basis, the design of the provision has been left more loose than we would have liked it to be, but we accept that the government is making a fair effort to address the issue. On that basis—certainly from opposition with our limited resources—we are not going to try to push for a harder system. I wish the government success, and I hope it works for the tax office’s purposes.

The fourth schedule is a technical amendment. The opposition does not have any difficulty with what the government is proposing there—except to reiterate what I said earlier, and that is that the GST is an evolving creature still. It was introduced in July 2000, and here we are moving on to July 2006. It is not part of the government’s 10-year anniversary celebrations, but six years is a significant milestone for the GST.

It is simply not true to say that the GST has not imposed a burden on the Australian people. It certainly has imposed a burden, particularly on low-income earners. It has also been an enormous burden on the many millions of small business people who still have the very hefty task of collecting the GST, taking responsibility for it in the interim—between collection and payment—resisting the temptation of using it for short-term cash flow crises, remitting it to the tax office and facing the prospect of some very hefty penalties in the event that they have been unable to meet those obligations.

Many small business people have come to see me about GST debts with the tax office. Some of them have been quite satisfied with the arrangements that they have been able to establish with the tax office, but some of them have been very disappointed with the unwillingness of the tax office to be more sympathetic to their situation. I want to make one quick point about those who enter into arrangements and then fail again. I know that we cannot relax our discipline on these people, but when they are meeting their obligations under the arrangements that they have entered into, it is pretty harsh on a small businessperson when, as a result of a minor misdemeanour on their next BAS, all the debt is called in. That is pretty tough on small businesses. (Time expired)

Mr CIOBO (Moncrieff) (7.11 pm)—I am pleased to speak on the Tax Laws Amend-
ment (2006 Measures No. 1) Bill 2006. In particular, I would like to make some remarks following on from the member for Hunter, who spent the first 15 or 20 minutes of debate on this bill talking about every other thing that he could think of besides the substance of the bill at hand. An issue that the member for Hunter touched upon in his concluding remarks also reflected a great deal of the substance of the beginning of his remarks in this debate, and that was the GST and the complexity of the GST. I was a little amused, not at what he had to say but by virtue of the fact that it was the Australian Labor Party who were saying it.

What is particularly amusing is that the Australian Labor Party come into this chamber and lecture the government on the complexity of the GST. The Australian Labor Party refused to get behind a broad based, low rate GST tax by blocking it in the Senate. They forced the government to negotiate with the Australian Democrats on a whole range of different exemptions in order to get the kind of structural tax reform through that the government had sought and received a mandate from the Australian people to do.

It was the Australian Labor Party who led to this mish-mash of complexity that is the GST that Australia has today. That is not even to begin with the fact that the Australian Labor Party, for a great while under the leadership of the current Leader of the Opposition, consistently spoke about how they would roll back the GST if they won government. Now all those plans have gone out the window. We do not hear the member for Hunter saying anything about roll-back, because the roll-back policy was slightly just left to one side after the last election. No-one talks about it any more. If the member for Hunter were serious about complexity, then he would perhaps explain to the House why it is that the Australian Labor Party sought to be politically opportunistic and forever burden small businesses with compliance costs associated with myriad exemptions that apply under the GST today.

If the Labor Party were seriously concerned about the issue of compliance, they would not have done what they did back in 1999-2000. If the Labor Party were seriously concerned about small business and general household compliance with the GST and the costs associated with that compliance, they would not have forced the government to negotiate with the Australian Democrats in order to get the GST structural tax reform through.

This government believes in the GST. I also highlight that so did the Australian Labor Party, under the former Treasurer and subsequent Prime Minister Paul Keating, for a great number of years until they needed to differentiate themselves in the Australian political marketplace, so to speak. They suddenly jettisoned that idea and said that they did not support the GST. But they know, as indeed we know, that the GST is the structural tax reform that this country needs.

If there is any greater need for proof, Mr Speaker, then simply put your eyes on the Queensland Premier, Peter Beattie, and all of his state and territory Labor mates who rapidly ran up to sign the GST agreement knowing full well it delivers billions of dollars of GST funds to Labor state and territory governments. Despite the rhetoric, the Australian Labor Party have caused the greatest amount of complexity that Australian small businesses have to deal with. The Australian Labor Party have forced a great deal of the complexity that now takes up so many hours of time for small businesses. For example, there is the national franchise of independent businesses, of whom the president is based in my electorate on the Gold Coast and who, incidentally, runs a sandwich shop. This is exactly the kind of small business owner-
operator that we are talking about—the kind who is forced to separate the items in his store that have GST levied upon them from those that do not. This is a consequence of the Australian Labor Party. If the Howard government’s original proposal had gone through, there would not be any need to undertake such complex actions.

Another point I would like to touch upon is the amendment that the member for Hunter foreshadowed—in particular, amendments that he seeks to include in section 50A, subsection 26-52(4). I notice that, as part of the foreshadowed amendment, the member for Hunter has included:

(4) An amount is not a bribe to a foreign public official if

(a) it is incurred for the sole or dominant purpose of expediting or securing the performance of a routine government action of a minor nature, and

(b) the value of the benefit was of a minor nature, and

(c) as soon as practicable after the loss or outgoing was incurred, the person made a record of the loss or outgoing and the record complies with section 70.4(3) of the Criminal Code Act 1995.

It would simply appear to me that the Australian Labor Party, with this amendment, is seeking to exclude bribes provided they are considered to be of a minor nature. I notice it says nothing about frequency in there. So the question is: is the Australian Labor Party coming before this House and effectively making the Australian Labor Party soft on bribes. As I said, there is no reference in this amendment to the frequency of payments; it simply says that the payment must be minor. It is incredible that the shadow minister would put forward this kind of drafting and say that he would like the government to support this amendment. It is poorly drafted, and I would suggest respectfully to the Minister for Revenue and Assistant Treasurer—a good friend of mine—that we not support this amendment.

Having made those remarks, I would now like to turn to the focus of the bill that is before the chamber today. The Tax Laws Amendment (2006 Measures No. 1) Bill 2006 effectively embraces four key principles: changes under schedule 1 to foreign income exemptions for temporary residents; schedule 2, for business related costs, or what are referred to as black hole expenditures; schedule 3, to promoters of tax exploitation schemes; and schedule 4, which is effectively little more than a technical amendment to GST and vouchers dealing with, for example, prepaid phone products. Dealing with the first schedule, it is very clear that Australia must remain globally competitive if we are going to continue to attract the very best that the world has to offer with regard to human capital, or what we might call skilled workers. It is very clear that Australia, like so many countries around the world, is unfortunately a victim of its own success in a number of regards—that success being the fact that our nation, with its high standard of...
living and high values, has seen a decline in
the birthrate over the last several decades,
which has resulted in our country having an
ageing population.

A consequence of this of course is the fact
that our labour force is diminishing in rela-
tive terms. On that basis, as our country con-
tinues to grow—and it has been growing
very strongly under the Howard govern-
ment—it is necessary for our companies and
employers to turn their minds to other possi-
ble opportunities to employ people from off-
shore. Historically, it has been the case that,
when Australian companies have gone
abroad seeking to attract people—and seek-
ing to attract the very best that the world has
to offer—to come and live in Australia, de-
spite our wonderful climate and our wonder-
ful standard of living, many choose not to
come simply because of how our income tax
laws operated previously. Historically, and
prior to the introduction of this bill—should
it receive assent—it was the case that those
foreign workers who came as temporary
residents would have offshore income sub-
ject to taxation. Schedule 1 of the bill will
operate so that it attracts internationally mo-
bile skilled labour to Australia by exempting
their foreign investment income from Austra-
lian tax, thereby reducing the cost to all Aus-
tralian business of bringing skilled persons to
work in Australia.

This measure was introduced twice in
2002 but, unfortunately, it failed to pass the
Senate—a consequence, again, of the Austra-
lian Labor Party. I welcome the fact that the
member for Hunter has indicated that the
opposition will be supporting this particular
schedule. I understand that it is subject to the
caveat of further scrutiny in the Senate
committee stage. Nonetheless, at least we
have progressed further than we did previ-
ously. As was announced in the 2005-06
budget, this measure would originally have
provided a four-year exemption on most for-
eign-source income. However, for the pur-
poses of this bill the time limit has now been
removed, as the government was of the view
that it creates unnecessary disincentives and
distortions for individuals wishing to remain
working in Australia.

In addition, of course, temporary residents
will be treated in the same way as nonresi-
dents for the purposes of capital gains tax.
This will remove an existing problem with
the functioning of the CGT rules for those
who are departing residents. This measure
also does not disadvantage Australian em-
ployees when compared to temporary resi-
dents. Employment income and Australian-
source income of temporary residents re-
mains taxable. So those who may claim that,
as a result of the operation of this bill—and
in particular schedule 1—Australian em-
ployees will in some way be advantaged
or in some way, relative to temporary resi-
dents, will not be in a situation where they
can secure employment are incorrect. The
reality is that earnings of Australian residents
are taxed in the same way as they are for
temporary residents.

The second schedule, as I mentioned,
deals with black hole expenditures. This par-
ticular act provides a new five-year write-off
to business capital expenditures not taken
into account and not denied a deduction
elsewhere in income tax law. Capital expen-
diture incurred in relation to a past, present
or prospective business will be deductible to
the extent that the business is, was or is pro-
posed to be carried on for a taxable purpose.
As part of a systematic treatment, more ex-
penses can be included in the cost base and
reduced cost base of capital gains tax assets
and the elements of cost for depreciating
assets. Additionally, there is a new five-year
write-off for lease and licence surrender
payments incurred in carrying on or in ceas-
ing a business. Some of these payments were
previously not recognised by income tax law.
This measure gives effect to the systematic treatment for business black hole expenditures that was announced in the 2005-06 budget. I certainly welcome this change. I notice that the member for Lilley is in the chamber, and I know how pleased he was when I announced previously that I humbly had received an award of being the small business and franchise politician of the year.

Mr Swan—You’ve been eating too many doughnuts!

Mr CIOBO—In that respect—and I see, once again, he is pleased for me—I am pleased to note that this particular change will be for the benefit of small businesses. I look forward to educating the member for Lilley on the needs of small businesses and franchises so that the Australian Labor Party may better reflect their needs in its policy such that those small businesses and franchises will be able to go from strength to strength, as indeed they have done under the Howard government for the past 10 years.

The third schedule of the bill details measures to deter the promotion of tax exploitation schemes. This schedule is arguably the most important schedule in this particular bill. Effectively, this measure will deter the promotion of tax avoidance and tax evasion schemes and will protect the integrity of product-ruling systems administered by the Australian Taxation Office. Promoters will now be at risk of civil penalties imposed by the Federal Court in situations where their clients are already at risk of penalties under the tax laws for participation in tax avoidance schemes.

The Commissioner for Taxation will be able to seek injunctions and to enter into undertakings with promoters to stop the promotion of unlawful schemes. The question will be asked: in what way is it possible to obtain such an injunction? In order for an injunction or penalty to apply, there are five key elements that will need to be established. Promoters will need to: (1) have marketed the scheme or encouraged growth or interest in it; (2) have received consideration for that conduct; and, (3) have a substantial role with respect to marketing and encouragement. Implementers are only affected if they implement a scheme promoted on the basis of and conforming to a product ruling in a materially different way. A tax exploitation scheme is a scheme to reduce tax whereby, one, it is reasonable to conclude that participants would do so for the sole or dominant purpose of obtaining a scheme that has a tax benefit and, two, it is not reasonably arguable that a scheme benefit is available at law.

This is important, because there have been many instances in the past where, unwittingly, a number of Australians have fallen for mass marketed tax effective schemes that promoters have put forward. Whilst, arguably, there may be some coverage through the operation of the Trade Practices Act, it is important—and I welcome moves by this government—to very definitively outline that that kind of conduct is unacceptable. I welcome the fact that people will be able to go forward with strength and certainty, knowing that in fact adequate measures are being put in place to help crack down on those promoters who would otherwise give rise to people—unwittingly, perhaps, or even in some cases knowingly—being in breach of the Income Tax Assessment Act and not meeting their tax liabilities.

Certainly, it is the case that there are many examples where people have breached the act in the past, and I welcome this measure because often it has been as a consequence of promoters pushing schemes onto them. Although this does not excuse those who seek to evade their liabilities, it certainly should also sheet home to the promoters a requirement to ensure that they do the right thing and not promote schemes that would
otherwise be in breach of the act. The final element of the bill deals with prepaid phone products, which is a technical amendment, as I discussed earlier, and I do not intend to deal with it. To facilitate the House, I commend the bill to the House and conclude my remarks.

Debate interrupted.

ADJOURNMENT

The SPEAKER—Order! It being 7.30 pm, I propose the question:

That the House do now adjourn.

Trade Skills Training Visa

Ms KING (Ballarat) (7.30 pm)—This week has seen the Howard government introduce its new trade skills training visa. This visa will allow imported unskilled migrants to undertake apprenticeships in regional areas of Australia in trade occupations experiencing skills shortages. The reason the Howard government has had to take such steps is that it has presided over a massive skills crisis which is placing huge constraints on the Australian economy. However, this visa is not the answer. The visa will mean that many young Australians will miss out on apprenticeships. What is worse is that overseas apprentices will undercut the conditions of those Australians who do manage to get an apprenticeship. This new apprentice visa is a contractual agreement between the applicant and employer, meaning that the applicant will be beholden to their employer and to the job that they do. An apprentice has to accept the pay, conditions and work offered by the employer. A failure to do so will see them on the first plane home.

The former Minister for Education, Science and Training used to devote a great deal of time in this place ranting that Labor was not a supporter of apprenticeships—a claim that could not have been further from the truth—yet here we have the government introducing a measure that totally undermines the apprenticeship and training system in Australia. In my electorate we have a teenage unemployment rate for 15- to 19-year-olds of around 20 per cent. Yet since 1997 the Howard government has increased the skilled migration program by an extra 270,000 skilled migrants and since 1998 has turned 270,000 Australians away from TAFE. That is just not right. If this government was so concerned about providing alternative forms of further education for young Australians other than university, why hasn’t it invested in TAFE? Why has it presided over a massive skills shortage in the traditional trades? Why is the government seeking to allow imported unskilled migrants to undertake apprenticeships in regional areas of Australia in trade occupations experiencing skills shortages?

My electorate of Ballarat has already seen first-hand the effects of the current skills shortage. Many people would be familiar with the case of MaxiTRANS, a major employer in my electorate that desperately needed skilled workers. It had won a number of new contracts and needed to fill them straightaway. Instead of having access to a pool of trained workers, it had to go overseas to source labour to fulfil its contracts. The government simply had not trained enough Australians to fill these positions. MaxiTRANS tried to meet its skills needs by finding workers locally but claims it was unable to do so. With no credible solution forthcoming from the Howard government, it knew the crisis would continue into the future. MaxiTRANS had also tried to recruit apprentices, but it then put some of these apprentices on hold because it needed skilled workers immediately.

It is a damming indictment that it is easier to source skilled labour from overseas than to train Australian kids for these jobs. The reason we do not have enough people trained
in the traditional trades is that young people are struggling to get into apprenticeships in the first place. I want to take the example of a young person from my electorate, James. James is a bright young man who does not see his future in attending university. He instead desperately wants to gain an apprenticeship as a bricklayer. However, James faces two barriers to fulfilling his ambition. The first is that TAFE is jam-packed and he cannot get a place in a pre-apprentice course for at least eight months. He is one of the 270,000 young Australians who have been turned away from TAFE by this government. The second barrier he faces is that of cost. James, like many young people, does not have access to a lot of money to throw around. Every dollar James has is already accounted for—swallowed up by food, petrol or other costs.

Labor’s approach stands in stark contrast to finding unskilled labourers overseas who can afford to do an apprenticeship. Labor looks to help young Australians meet the costs of attending TAFE and completing an apprenticeship. While James may be able to cobble together the money to get into TAFE, there is absolutely no guarantee that in eight months he will be able to gain a place at TAFE. This is why the government’s decision to allow imported unskilled migrants to undertake apprenticeships in regional Australia in trade occupations experiencing skills shortages is so short-sighted and potentially devastating for so many young people like James in my electorate.

Just because a local employer cannot put on an Australian apprentice does mean that there are not young people out there who want one. However, instead of training Australians first and giving them a helping hand, the Howard government has looked overseas for a short-term fix. The government has scrambled to try and justify this new visa by claiming that its trade skills training visa requires the potential employer to demonstrate that there are no local people prepared to take the job. That is a facade. Nowhere among the 50 questions on the employer’s application form does it require them to say they have even advertised the job. There are long-term solutions to Australia’s skills crisis rather than the patch-up solutions that this government is trying to implement. (Time expired)

Braddon Electorate: Road Accident

Mr BAKER (Braddon) (7.35 pm)—This evening I rise to reflect on another tragedy that befell my electorate of Braddon in north-west Tasmania at the weekend. In recent years the Circular Head community has had to deal with too much tragedy. In 2004 a house fire claimed the lives of four children, and a plane crash in March 2003 claimed the lives of three young builders and their pilot. Last Saturday morning, 25 February, the small community of Circular Head lost five young women in a road accident near Burnie, only a few kilometres from my electorate office. Three members of the Smithton Saints under-16 girls basketball team were lost: Claire Tapson, 14 years old; Larissa Heron, 14 years old; Bianca Thorp, 15 years old; their coach, Bianca Gourley, who was 25 years old and three months pregnant; and Sherilee Keating, who was 36 years old and the mother of Larissa Heron. A passenger from another vehicle involved in the accident was critically injured and has been undergoing spinal surgery in Melbourne.

What do we say when a tragedy such as this rocks our community? A little over a week ago we learned of the horrific loss of life at Mildura and felt sadness for the victims’ families and their community. Never did we think that less than a week later we would have to confront tragedy once again. The communities of Circular Head and Mildura are united in their grief and in trying
to come to terms with the sudden loss of so many of their young people. At Smithton on Sunday evening I attended a service for those who died and I was overcome by the expression of grief in the community. There I saw many relatives whom I had played football with, and, as I discovered recently, the principal of the school was a teacher I had taught with some 18 years ago.

This is a community that stands together in times of adversity and it is a community that is truly united in its grief. The words of local pastor Trevor Marshall show what we must do when there are no words. Mr Marshall told us:

We don’t know what to say. So just put your arms around them and tell them you love them.

As a local representative of the community, all I can offer are my condolences and support to the families of those who have lost loved ones. And I offer my support and best wishes to the woman who was injured and to her family. There is no sense to be made of such tragedies; no answers for why so many lives have been lost in a split second. As the days go by we must not succumb to looking for blame but must remain united as a community. This tragedy should highlight to us all both the frailty of life and the strength of our communities. We must not take any moment for granted; we must treasure our families and our friends. This is what we must do to truly honour the memory of those who have gone.

I want to end by paying tribute to those who were taken from us—to the three budding young basketballers, to their coach, a mother to be, and to a mother. I want to do so in the words of a friend and team-mate of the girls. She said:

We just want our friends remembered for how they were. They were all very, very nice people. They cared about people and we miss them very much.

Minister for Health and Ageing

Mr RIPOLL (Oxley) (7.38 pm)—Yesterday the Australian public saw, in full flight, the ugly face of the Howard government on issues of racism. The Minister for Health and Ageing stood at the dispatch box and exposed himself for what he is—a narrow-minded man with no real sense of what it means to be an Australian. He is not fit to serve in cabinet and the Prime Minister should repudiate him for his disgusting slur on millions of Australians. Not only should the Prime Minister call him into line but also he should be counselled by many of his coalition colleagues. Will the member for Petrie, Ms Gambaro, stand up and be counted? What about the member for Kooyong, Mr Petro Georgiou? Will he speak out? Will the member for Ryan, Mr Michael Johnson, have anything to say? What about the member for Indi, Ms Sophie Panopoulos? Will she chime in and set the minister straight? I know she is not backward in coming forward. Tonight, I urge them to stand up and be counted. I urge them to show some leadership and reject what Mr Abbott had to say on race. If they do not, they are guilty of perpetuating the narrow-minded sentiment which has no place in Australian society and certainly no place in our national parliament.

Where are the true Liberals who are prepared to stand up for the true Australian ideals of equity and egalitarianism? I find offensive the notion that if you are not of Anglo-Celtic origin you are not Australian. It is absurd to suggest, as Mr Abbott did, that anyone from a migrant background is not a real Australian. It is reprehensible for Mr Abbott to claim that Australians of Greek, Spanish, Cambodian and Vietnamese background are not real Australians.

The SPEAKER—The member will refer to the minister by his title.
Mr RIPOLL. There are not two classes of citizens in Australia and, by the way, every voter in the ALP is an Australian citizen. The minister always goes one step too far. And now he has revealed the ugly racist core at the heart of the Howard government. And the Prime Minister sat by and did nothing. We all know why he did—the Prime Minister has form—but tonight I call on other true Liberals to stand up and be counted. This has only one effect. It divides Australia. Australians want and expect true leadership—the sort of leadership that will unite us, not turn us on ourselves. If the minister is not prepared to provide that, or if he is simply incapable of doing so, then he should go. There are not two classes of people in this country. The Labor Party knows and understands that. The denigration and use of people’s ethnicity, whether they are in the Labor Party, the Liberal Party or any other party, is a low act. By saying that Greek Australians, Vietnamese Australians, Cambodian Australians and Spanish Australians, because of their membership of the Labor Party, are not real Australians, the minister has insulted all Australians—he has insulted me.

I can imagine no greater fear for those such as my family or I who were born overseas than to be taunted by a minister as not being a real Australian. For me this is reminiscent of some days at school where the only power left for a bully was to poke fun at a person’s ethnicity, to taunt at difference, to diminish and to ridicule not for anything that was done but just for being born in another country or for looking different. I am sure that Australians from other countries that the minister referred to know exactly what I am referring to because they have to live with this every day of their lives—and, while it is not acceptable, it is endured by many and often silently. These Australians from a variety of ethnic backgrounds, some who were born in Australia and others who were born overseas, are as Australian as the members of parliament who were born overseas or who are second, third or fourth generation Australians. But for this behaviour and these comments to be promoted in the people’s house by a minister is the real offence.

Minister Abbott’s comments fuel and excuse the few in the community that believe it’s okay to speak like this or to act like this and to denigrate people like this. Let us not, whether here in our national parliament or in streets around the country, lose sight of who we are. Let us not forget whom we represent and to whom we in this parliament are accountable. The Australian people deserve and expect better.

In closing, I want to remind those present, and in particular the Minister for Health and Ageing, of just a few things which the Labor Party holds dear and which you can find in our national platform. The Australian Labor Party refuses to manipulate fear or racism for political gain—the complete opposite in fact of what was done by the minister. Labor seeks to encourage greater dialogue and cooperation between different religious faiths and national ethnic organisations. Labor believes that citizenship is the common bond that unites us all in a mutual commitment to Australia. The minister for health, Mr Abbott, would be well advised to subscribe to these values and the Parliamentary Secretary to the Treasurer, at the table, would be well advised to listen very carefully to the words I have said and not think that they are some outrageous comment on what took place. There are many people who did take offence because we know exactly what the minister for health was actually doing. It is a careful political strategy, one that he may cleverly think gains him a few votes in an isolated area in isolated communities, but it was an act perpetrated in the people’s house which was uncalled for, unwarranted and very ugly.
Minister for Health and Ageing
Stirling Electorate

Mr KEENAN (Stirling) (7.43 pm)—I rise to talk on something that actually matters. When the member for Oxley gets up with this sort of confected outrage about a comment that has been made that somehow reflects the racism on this side of the House, it does not do race relations or the ethnic communities, many of whom I represent, any good at all. He expresses mock indignation about a comment that was made as an aside in the parliament about the Labor Party’s corrupted preselection processes—which are actually outrageous. The idea that ethnic communities are used in this branch-stacking way is not a good thing for Australian democracy. I think anyone who is reading about the trials and the tribulations of some of the Victorian members of the ALP having to go cap in hand to the various ethnic factional warlords in Victoria would equally be outraged. I represent a very multi-ethnic electorate. They have some real problems and concerns and one of them is not some aside made in the parliament by the Minister for Health and Ageing. Let us get real when we start talking about these things and talk about things that matter to the Australian people.

I would like to take this opportunity tonight to highlight a particular ethnic service in my electorate of Stirling and some of the quiet achievers who do not always get the recognition they deserve. One of them is Heather Niss, who was here in Parliament House on Monday night to receive a National Award for Quality Schooling for her work and dedication to students in the local Jewish community in Stirling. Ms Niss is a teacher at Carmel school and she was highly commended in the excellence by a school support staff member category. She was nominated by a very proud principal, Ms Lorraine Day, as well as by Carmel students. Ms Niss was given the opportunity to travel to Canberra to receive her award and also to take some time to visit places around the nation’s capital.

Ms Niss is not alone in her dedication to the residents that I represent in Stirling. Staff and volunteers at the local Chung Wah Community Centre in Balcatta have received some funding from the federal government’s National Respite for Carers Program. They are working very hard to ensure that ethnic Chinese, Vietnamese and Thai residents in my electorate of Stirling, and also in the wider metropolitan area, get access to some respite care. As many people will know—and it is something I have become aware of since becoming a member of parliament—one of the biggest challenges for carers is being able to find some respite. Caring for a loved one is a 24 hours a day, seven days a week occupation. It is difficult for carers to find any respite from their extensive duties. Finding someone whom they feel they can trust their relative with and who will provide a safe and warm environment for them is exactly what the Chung Wah Association is going to do with the grant that is being provided by the federal government. I would like to congratulate them and to thank the volunteers at the Chung Wah Association who are really making an effort to make the lives of some of the elders in their community better.

Some of the businesses in Stirling have also received some good news lately. Structural Monitoring Systems, based in Osborne Park, has received $2.9 million, one of the largest ever Commercial Ready grants that has been awarded to a Western Australian company. The grant will go towards helping them to commercialise a structural monitoring system that works particularly well for the aviation industry. Boeing and Airbus have taken a particular interest. I am extraor-
ordinarily pleased that a small business at Osborne Park in my electorate can operate on such a global scale thanks to the $2.9 million grant from the federal government.

Finally, I want to touch on the Stirling Business Association, which is the largest business association in Western Australia. It has been operating for more than 30 years and has enjoyed great success. The Stirling Business Association, along with the City of Stirling, prepared a submission seeking a grant from the Regulation Reduction Incentive Fund. I was pleased to announce that they received $187,000 to streamline their processes and to deliver improvements to small businesses in my electorate when they interact with their local council. Mr Speaker, as you are well aware, it is 10 years since the election of the Howard government, and I am very pleased to have highlighted a few examples of how its responsible management is making the lives of my constituents better. (Time expired)

Parliamentary Reform

Dr LAWRENCE (Fremantle) (7.48 pm)—As the previous speaker, the member for Stirling, indicated, we are approaching the 10th anniversary of the Howard government. I add that it has been 20 years since I first became a parliamentarian, starting in Western Australia, and I thought it was time to reflect briefly on this institution, the parliament, and the way it is run. Parliaments are the most visible symbols of our democracy, where theoretically decisions are made by the elected representatives of the people, but domination by the executive remains a hallmark of Australian politics and, despite what the Prime Minister has been saying lately, parliament is often sidelined from key decisions. I think it is long overdue for substantial reform to enable it to take greater responsibility for its own affairs and to act more independently of the government of the day. Our current system is increasingly based on the rubber-stamp model of government—what some people have called an elected autocracy—where the government determines all the policy without much reference to the parliament.

In this scenario, MPs are here for no other purpose than to register the choice of voters. We might ask: why have a parliament at all when it would appear there is so little justification for all the effort and expense entailed? It is interesting that at the same time as MPs lecture the community about the need for greater flexibility and efficiency we participate in one of the most rigid and inefficient institutions in the country. Indeed, the same politicians who advocate flexibility and reform in other workplaces cling to conventions and practices which always had design flaws and which have ossified into caricatures of themselves.

I make a number of suggestions today for a modest start to reforming our parliament: establishing a House of Representatives modernisation committee to look at the practices and procedures of the House to make us more up to date and more open and engaged with the public; installing an independent Speaker; establishing a cross-party parliamentary commission responsible for staffing and appropriations; establishing a House of Representatives business committee with cross-party representation to determine the business of the House, regularly endorsed by the parliamentarians; introducing electronic voting; having parties introduce three-line-whip procedures to give members more discretion in voting; better displaying of the activities of the House, including electronic bulletin boards of current activities—for instance, which bill is being debated, who is speaking, what motions or amendments etc are being debated; and, very importantly, reforming the standing orders to improve question time.
Question time, I need not tell you, Mr Speaker, is a notorious source of disaffection for anyone but the most ardent political insiders. It is often mentioned by voters as one of the most irritating of parliamentary procedures with its aggressive and insulting language, accusations instead of questions, replies that contain no information and evade the question, and gratuitous attacks on political opponents, all in the atmosphere of an unruly locker room complete with a sin bin. The occasionally raucous and frequently rude behaviour of MPs leaves most people—and many MPs—cold. It is not even very good theatre—B-class at best.

It is difficult not to agree with Coghill’s assertion that ‘the rules for question time are so ridiculous it is no surprise that they generate the type of behaviour we see on the nightly news’, and I endorse his contention that it has ‘degenerated almost to a farce’. As a result, question time rarely functions as it was intended: as a means of ensuring accountability of the executive, exposing abuses of power and corruption, and challenging the arbitrary exercise of power by the government. These are serious matters and they are not to be joked about. The standing orders and, perhaps more importantly, the approach of the government do not require that responses be particularly relevant to the question let alone provide an answer. While people complain, there has been little real appetite for reform either from MPs themselves or from those in the media gallery who are forced to witness the charade.

I believe it is time to reform the standing orders to improve question time. I have a few suggestions: dorothy dix questions should not be permitted at all; the majority of questions should be allocated to the opposition; ministerial statements should be used to outline government policies; time limits should be applied to both questions and answers; supplementary questions should be allowed; standing orders should be amended to require that questions be answered; the House could adopt a ‘take note’ procedure similar to that of the Senate, allowing follow up; and questions should be asked directly to the responsible minister, not through the chair.

I could make a number of other suggestions, particularly around the question of debating and the role of committees. In recent months, I have put forward the democratic project, which calls for major reform of this parliament. I think it is a scandal that we do not look at our own performance in this place. It is a scandal that members are apparently content to sit by while they are sidelined from the most important decisions this nation makes and are not in a position to hold the government accountable. I think it is time we had a democratic project which reforms this parliament. After 100 years, I think it is well overdue.

Bonner Electorate: Sporting Shooters Association of Australia

Mr VASTA (Bonner) (7.53 pm)—I have the great honour of being the patron of many community organisations in the electorate of Bonner and, in particular, I feel privileged to be the patron of the Brisbane branch of the Sporting Shooters Association of Australia. Established in 1948, the association is the premier body representing licensed firearm owners in Australia, with over 120,000 members. The organisation continues to effectively promote the shooting sports and protect the interests of firearm owners.

The local Brisbane club at Belmont has provided great support, and I remain extremely impressed with the way in which the club is operated. I make special note of the former club president and current secretary, Mr Don Ruwoldt, who has shown exceptional leadership and commitment to the club. Former secretary Kay Hutchinson has
also been a great asset to the club, and I commend her for all her effort and work.

Since its inception, the club has unfortunately never had a sealed car park. Whilst it hosts many world championships and facilitates training for many law enforcement officers, the club can never attain ‘world-class’ status while it has a gravel car park. Vehicles parked in the area are subject to dust and loose rocks, in addition to the lack of clearly marked parking spaces. This issue has caused frustration among members and visitors for some time now and it is an issue that the club is desperate to address.

As a not-for-profit organisation, the club has extremely limited funds, so a complete refurbishment of the car park is not financially feasible. In response to this, the very recently elected Councillor Adrian Schrinner of Brisbane City Council, the new state member for Chatsworth, Mr Michael Caltabiano, and I have set about trying to rectify this problem. We are writing not only to club members but to members of the wider community, requesting their assistance through donations of bitumen, concrete or drainage, or landscaping skills or any other skills that could help to refurbish the car park.

Queensland Gun Exchange and Leopold Australia have donated two superb rifle scopes. We will assist in advertising a raffle of the scopes, with tickets selling for $10 each and all the proceeds going to the renovation of the car park. This is not the first project on which local council, state and federal members have united and worked together for a community organisation. In fact, many constituents have commented on how refreshing it is to see politicians not arguing but getting on with the job. I thank my local and state colleagues and I look forward to working with them to deliver a successful outcome for the club.

Question agreed to.

House adjourned at 7.57 pm

NOTICES

The following notices were given:

Mr Abbott to move:

That, for the sitting of the House on Monday 27 March 2006:

(1) proceedings commence at 1.00 pm (instead of 12.30 pm), unless otherwise notified by the Speaker;

(2) the timing of all existing arrangements for Government, House and private Members’ business that day be adjusted back 30 minutes such that Question Time commences at 2.30 pm but noting that Government business is to conclude by 9 pm and an adjournment debate then occur until 9.30 pm, unless otherwise determined on motion moved without notice by a Minister; and

(3) the foregoing provisions of this resolution, so far as they are inconsistent with the standing and sessional orders, have effect notwithstanding anything contained in the standing and sessional orders.

Mr Abbott to present a bill for an act to amend the Health and Other Services (Compensation) Act 1995, and for related purposes. (Health and Other Services (Compensation) Amendment Bill 2006)

Mr Hunt to present a bill for an act to amend the Renewable Energy (Electricity) Act 2000, and for other purposes. (Renewable Energy (Electricity) Amendment Bill 2006)
Wednesday, 1 March 2006

The DEPUTY SPEAKER (Hon. IR Causley) took the chair at 9.30 am.

STATEMENTS BY MEMBERS

Business: Corporate Governance

Mr McCLELLAND (Barton) (9.30 am)—On 14 August 2003 in this chamber I commented on circumstances in which the Metro group of companies operated by the Coughlin family were placed in voluntary administration, resulting in approximately 300 employees losing their jobs and being deprived of about $9 million in outstanding entitlements. While a portion of arrears was recovered for some of the workers as a result of a determined effort by the Australian Manufacturing Workers Union, who were able to establish that employees had been transferred between companies without their consent, that good fortune did not apply in the majority of cases. In fact, small business owners in the St George and Sutherland Shire areas also lost in the order of $30 million, with several businesses being driven into receivership by nonpayment of their contractual entitlements.

What I did not discuss in August 2003 was that, prior to the Metro group of companies being put into voluntary liquidation, the Coughlin family established another company in China called JKJT, which traded as Shelf Retail Equipment Pty Ltd. It is perhaps no surprise that, after the winding up of the Metro group in Australia, JKJT commenced providing the same product to the same customers of the failed Metro group, from China using cheap Chinese labour. Channel 9’s A Current Affair program, the AMWU and the St George and Sutherland Shire Leader have done an excellent job reporting on the activities of the Coughlin family, who continue to live in luxury but still engage in questionable business practices. But this method of public shaming is not enough unless and until company directors who behave in this manner learn that by law enforcement action they will actually lose their own assets. Until then we will continue to see hardworking Australian workers and business owners being deprived of their livelihoods and their legitimate entitlements.

The parliament has in fact passed legislation that would enable the Australian Securities and Investments Commission to recover assets from a corporation that is found to have deliberately shifted assets for the purpose of avoiding paying employee entitlements. To date, it does not appear that we have seen any action against this group of companies or its directors by ASIC. It may well be the case that the laws are too restrictive, that the burden of proof is too onerous to be utilised in these circumstances. It may be that ASIC has not been properly resourced to pursue these sorts of activities. Whatever the situation is, it needs to be addressed. Australians should not see decent Australian workers and small business owners being deprived of their entitlements in this way. (Time expired)

Wakefield Forum

Mr FAWCETT (Wakefield) (9.33 am)—I rise to address one of the areas of politics that is often talked about cynically by people in Australia. It is not helped by articles that come out in the press. I refer to an article in the Advertiser in Adelaide by a journalist who talks about the fact that political parties do fundraising activities. He complains about the fact that some elected ministers, leaders of oppositions et cetera charge fees. I recognise that goes on. He refers to Premier Mike Rann in South Australia, who charges $2,500 for people to go along
and join him for a dinner. I think people recognise that this is an attempt by political parties not to use taxpayer funds. Particularly concerning is the claim:

One of the sad developments in modern politics is the growing distance between politicians and people. It wasn’t many years ago that politicians held public meetings in town halls—where people could speak their minds, and hecklers and interjectors could ask questions. He then makes the claim that we have reached the point where people are required to pay to get close to their politicians.

I would like to draw Mr Jory’s attention to the Wakefield Forum, something I run in Wakefield, where we open up the government of Australia to people in the electorate. For example, last year, if not free, for the price of $2—purely to cover afternoon tea costs—members of the public were welcome to come along to talk with Minister Dutton, when he was the Minister for Workforce Participation, and Minister Nelson, when he was the Minister for Education, Science and Training. The 97 schools in the electorate, the principals, the governing councils—which are made up of parents—and any other interested members of the public came along. They had an hour or two with the minister both in a country high school, at Riverton, and in Fremont-Elizabeth City High School in the south. People were able to listen to the minister and, importantly, ask him questions about government policy and how it impacts on them. This was not just open to the public. Members of the Education Union came along and were able to engage with the minister.

There are many examples where in Wakefield people have access not only to me through listening posts but through the Wakefield Forum to a range of ministers covering spectrums such as health, agriculture, education and the workforce, to the Treasurer and even to the Prime Minister. Despite the assertions by Mr Jory that people have to pay huge amounts of money to see the Prime Minister, the Prime Minister came and met with around 300 representatives from schools and community groups in my electorate last year. He gave a short speech and then spent the majority of the time mixing one on one and speaking with people from the community. I commend the Prime Minister for giving the commitment to the people of Wakefield to be accessible, without the cost that Mr Jory so cynically remarks on.

Vietnam: Human Rights

Mr BOWEN (Prospect) (9.36 am)—I want to make some brief remarks today about human rights in Vietnam. In June I understand the Prime Minister will visit Vietnam. This follows a visit by the Prime Minister of Vietnam to Australia last year. It is important that human rights are on the Prime Minister’s agenda when he visits Vietnam. Vietnam is a consistent poor performer when it comes to political, religious and civil rights. The latest example of this occurred quite recently. On the evening of 16 February this year at Saigon railway station the venerable Thich Quang Do, the second highest official of the United Buddhist Church of Vietnam, was arrested and taken by public security agents as he attempted to lead a peaceful delegation of monks to Binh Dinh province to visit the venerable Thich Huyen Quang, the church’s ill patriarch. There is evidence that the venerable Thich Quang Do was physically assaulted during this melee. Subsequently, about 40 monks staged a sit-in protest at the station, supported by hundreds of angry Buddhists. Presumably as a result of this protest, not long afterwards the security forces released the venerable Thich Quang Do.
This is the latest example of a breach of human rights in Vietnam. Transparency International’s 2004 survey ranked the Vietnamese regime 102nd out of 146 countries. Reporters Without Borders ranked the Hanoi regime 161st out of 167 nations in its 2004 survey.

Yesterday a group of Australians of Vietnamese background came to Parliament House to protest against the abuse of human rights in Vietnam. I was honoured to be able to contribute in a small way by addressing the protest, along with other honourable members—including the honourable member for Blaxland, Senator Conroy, the honourable member for Mitchell, I understand, and, I am sure, others. As I said yesterday to the protest, it is appropriate that they come to the home of Australian democracy, to the place where Australian arguments are battled out in a democratic manner, to argue for democracy in the country of their heritage. As I said to them yesterday, democracy will come to Vietnam. It will not come quickly and it will not come overnight. It will not come unless people like them and their friends and supporters in this place take every opportunity to remind the Vietnamese regime that democracy is not negotiable and that we will not accept any attempts by them to continue their regime at the expense of the human and civil rights of those millions of Vietnamese who live under the dictatorship of the current socialist regime.

**Flinders Electorate: Water Treatment**

Mr HUNT (Flinders—Parliamentary Secretary to the Minister for the Environment and Heritage) (9.39 am)—I want to raise issues of water quality and water treatment at Gunnamatta Beach in my electorate. Gunnamatta Beach is on the southern edge of the Mornington Peninsula. It is the discharge zone for approximately 150 billion litres of secondary treated sewage every year. The single use of water—that is, collecting sewage and discharging it immediately at the coast—is a 19th century practice that is being continued in the 21st century. It is not discharged three kilometres to sea; it is not discharged one kilometre to sea. It is discharged at the coast.

Over the last two weeks I have received numerous calls, emails and letters from constituents who either reside in the area of Gunnamatta Beach or surf or swim at Gunnamatta Beach. The reason they have contacted me is that they, to a person, have stated that both the water quality and the stench are the worst they have ever known at Gunnamatta. So we have a real problem, with a demonstrable source, and a significant problem of inaction.

This has been compounded by the fact that on 26 August last year the Deputy Premier of Victoria, John Thwaites, who is also the environment minister, allowed the EPA to provide Melbourne Water with an extension on its licence to discharge secondary treated sewage at the coastal point for a number of years to come. They had been under an obligation to upgrade the level of treatment to tertiary. The EPA, with the consent of the Deputy Premier, has allowed this practice of dumping to go on. Last weekend and the previous weekend—over the last two weeks—we have paid the price for that decision and for a period of continuous inaction. It is unacceptable that this practice of dumping sewage off our coasts continues. The reality of that is before our eyes and is faced by the people who live near the beach and who use the beach. It is being experienced at its very worst as I speak in this House.

In addition to that, I recently approached the Victorian government through the auspices of the Deputy Premier and sought that they release on a weekly basis the figures for the discharge quantities at this outfall, so that the community could be aware, and for those figures to be placed on Melbourne Water’s website. That request was refused by the Deputy Premier.
There is no reason why these figures should not be made available to the public on a continuous basis. The solution is clear: upgrade the outfall, make the figures available, end the pollution. (Time expired)

**Ballarat Electorate: Merrimu Disability Services**

Ms KING (Ballarat) (9.42 am)—I would like to speak this morning about Merrimu Disability Services in Bacchus Marsh in my electorate. Last Thursday I had the pleasure of visiting this service. The employees and volunteers at Merrimu do an outstanding job in caring for 112 clients, many of them with severe physical and intellectual disabilities. I have visited a number of disability services throughout my career, and I have to say that Merrimu has to rate as one of the best. All the staff I met had such enthusiasm and passion for the people they were caring for. Merrimu was a hive of activity, with pottery classes, gardening, music playing and carpentry. Many people were out in the community participating in activities, each of them having an individual care plan and activity plan to cater for their individual needs.

It is when you visit services such as Merrimu that you realise just how many unsung heroes there are in local communities. During my visit to the service I was told about Robyn Youl. Robyn comes in every Thursday without fail with one of her labradors, and sometimes she even comes in with her cat. While this may not sound like much of an exciting thing to do, the excitement and the enjoyment that the clients get from seeing and playing with Robyn’s dog cannot be underestimated. I heard of young people who had no verbal skills at all, and who had little evidence of engaging with any activity at all, actually starting to talk, although only briefly, while they were engaging in activities with the dog. Robyn’s dedication of coming in each Thursday is a real credit to her and also the local community.

Janet Ward, who runs Merrimu, should be congratulated for creating an environment which is stimulating and caring for people with disabilities. The creation of this environment is no accident. Janet, her staff and the clients at Merrimu have taken ownership of Merrimu and the land that it is on and initiated projects such as the reconstruction of the front entrance. The centrepiece of the front entrance is the pond, which was dug, in some instances, during the pouring rain in winter. Janet told me that, despite the weather, each one of the young people engaged in that project were determined, even through winter, to make sure that that project was finished. The gardens at Merrimu are also tremendous. I should mention in particular the work of Russell, who in fact has his very own garden named after him. He sells vegetables to the staff from this garden.

I would like to conclude by saying thank you to everyone at Merrimu for your hospitality and for taking the time and showing me around your wonderful facility. High-quality disability services are vital to our communities. It is an area that is desperately underfunded both at the state and federal level. It is a credit to Merrimu that they provide such a high-quality service in this context.

**Tugun Bypass**

Mrs MAY (McPherson) (9.45 am)—Last Thursday the federal Minister for Transport and Regional Services and I announced final Australian government approvals for the four-lane Tugun bypass. This means that the Tugun bypass can finally be built. The environmental impact statement and the major development plan for the Gold Coast airport were both approved and that clears the way for the Tugun bypass to be built through the airport land.
The Tugun bypass itself will use some of the most sophisticated construction techniques possible and be subject to the most stringent environmental conditions of any major road project in Australia. I think it is important to have that on the record. The environmental concerns of people in the area were certainly very much in the forefront of this and were blocking the construction of the Tugun bypass at one stage, so it is very important for the southern Gold Coast to know that those environmental concerns have been met and the approvals have been given.

The Tugun bypass itself will eliminate serious congestion on the southern Gold Coast, particularly between Currumbin and Tweed Heads, and it will allow for a future rail link through to the airport. Work can start on the bypass just about immediately. In fact, we expect those first sods to be turned in April or May this year. We understand construction of buildings to house the staff has already commenced. I want to assure people on the southern Gold Coast that this piece of infrastructure will go ahead. It will become the new southern gateway for motorists entering the Gold Coast and further strengthen the Gold Coast airport’s viability.

There has been a comprehensive public consultation process throughout the whole time that this Tugun bypass project has been on the table. The Australian government has listened very carefully to the views of all parties to ensure that important social, economic and environmental issues were all fully addressed during that assessment process. Part of the project includes a road within a tunnel over which the airport runway will be extended. The planning also includes extension of the Gold Coast railway from Robina to the airport, but the timing of that project is a matter for the Queensland government. I can only say here today that I hope the Queensland government move that project ahead very quickly too. We see the Gold Coast airport as being the central hub of transport on the southern Gold Coast and to complete that we need the rail link to be completed.

The bypass will improve cross-border connectivity and, like no other project, unite those 500,000 people of the region into a self-sustaining economic unit where fast, efficient transport links are certainly the key to the economic growth of the area. I commend the Australian government for their commitment of $120 million to the project and assure the southern Gold Coast residents that it will be built. (Time expired)

Asylum Seekers

Ms BURKE (Chisholm) (9.48 am)—Over recent weeks there has been a lot of talk about values. I would welcome a discussion about values, but not the superficial ones we have been having. I would like to examine how Australian values are reflected in government policy, because in too many cases they are not. Most Australians would feel extremely uncomfortable at the thought of a female refugee experiencing a miscarriage being turned away from hospital simply because she did not have a Medicare card and could not afford to pay for treatment. Most Australians would feel extremely uncomfortable about a little boy from the Middle East who had to walk for two hours to and from school each day because his refugee parents could not afford public transport fees. Most Australians would feel extremely uncomfortable about the fact that a refugee from the Horn of Africa was diagnosed with malnutrition after living for several months in Australia—a First World nation—because she was not allowed to earn an honest living here, she was not eligible for welfare and she could not afford food.

I do not think cruelty is an Australian value. But the Howard government’s immigration policy is intrinsically cruel. And these cases are not isolated. It is estimated that thousands of
community based asylum seekers in Australia are in this position. The 45-day policy rule introduced by the Howard government in 1997 precludes an asylum seeker who lodges an application after 45 days of arriving in Australia from certain entitlements, including work rights and Medicare, as well as access to Centrelink benefits. At the conclusion of this statement I will present to the House a petition of 1,774 signatures calling on the Howard government to abolish the 45-day rule and give all community based asylum seekers in Australia work rights and Medicare access. I think that is an Australian value.

Over recent weeks coalition politicians have dealt us an entire deck of race cards. I think everyone is sick and tired of that game. People who come to this country seeking asylum should not be used as political pawns. I urge the Howard government to re-evaluate its immigration policy and grant work rights and Medicare access to refugees. These people are asking for the ability to work while they are in the community, and their request has been denied. The government would do well to remember Australia’s responsibilities as a signatory to the refugee convention and the UN Convention on the Rights of the Child, because at present, by denying asylum seekers these rights, we are in breach of convention. If it were not for the generosity of certain charities within our community, these people would be left to starve in Australia because they are not allowed to work and they are not allowed to access any form of benefit.

I want to put on the record yet again my sincere appreciation to the Hotham Mission Asylum Seeker Project, which supports 400 asylum seekers within Melbourne and provides them with accommodation and a basic living allowance of $30 per week. Out of the goodness of Australia’s heart these benefits are provided to community based asylum seekers. Economic responsibility and compassion are not mutually exclusive.

Queensland: State Labor Government

Mr CIOBO (Moncrieff) (9.51 am)—I am pleased to rise today to talk about a decision that has been made by the state Labor member for Gaven, Robert Poole. The decision that pleases me is that Robert Poole has decided to resign from the Queensland parliament—the wisest decision he has taken since being elected to the seat a number of years ago. The people of Gaven, a good number of whom live in my federal electorate of Moncrieff, have been without a voice in the Queensland state parliament for months and months. This state Labor MP has dominated media headlines in recent days after the Queensland Labor Premier, Peter Beattie, gave the go-ahead for this state Labor MP to reside in Thailand for the next three months because he needed knee surgery.

That begs the question: did this state Labor MP decide to go to Thailand to have his knee operation because he has such little faith in the Queensland health system? It is widely known that the Queensland health system is now one of the worst in this country. Unfortunately, the Beattie state Labor government’s priorities have been on all the wrong things. Instead of putting money into the health system, into infrastructure and into roads, the Beattie Labor government is squandering billions of dollars of revenue flowing from the federal government’s GST and from financial assistance grants. It is not putting money into the kinds of services that the community is desperately crying out for. To rub salt into the wound, the state Labor MP, Robert Poole, decided that he would spend money on another trip to Thailand—his sixth, I think, in a period of two years.
On this occasion, after public outcry and intensive lobbying by his own side, the Premier has finally done a backflip on his position and decided that Robert Poole needed to return to state parliament by the first week in April or resign. Fortunately, Robert Poole has decided to resign. I welcome his resignation. I think it is important that the people of Gaven have a strong voice in the state parliament, and I welcome the opportunity for the conservative parties to bide their time and put forward an effective plan to argue to the people of Gaven why we should be worthy of their support. Hopefully, we will receive their support in the upcoming by-election. I am disappointed that this state Labor member is now going to cost Queensland taxpayers tens of thousands of dollars on an unnecessary by-election. It would not have been necessary if he had simply done his job.

I also highlight the ongoing neglect of principal road systems such as the Nielsen’s Road interchange. Because of this state Labor member, as well as his southern colleague, the state Labor member for Mudgeeraba, the Queensland Labor government continues to drag the chain when it comes to the development of the Nielsen’s road interchange.

**Same-Sex Couples**

Ms KATE ELLIS (Adelaide) (9.54 am)—Today I would like to speak about the discrimination that continues to exist towards same-sex couples living in this country in 2006. I was interested recently to read an article in the *Sun-Herald* about the member for Leichhardt and his comments regarding his investigation into systemic discrimination against same-sex couples in a number of federal laws. He said, 'I’m not interested in promoting gay marriage and I’m not interested in Mardi Gras and all that stuff; I’m only interested in equal treatment under the law.' I think equal treatment under the law is something that as a parliament we need to devote a lot more attention to.

I draw attention to Labor’s longstanding commitment to a full audit of discriminatory provisions in Commonwealth legislation. There are a number of important areas where this parliament needs to act. On this side of the House we are committed to ensuring that same-sex de facto couples have access to federal courts for resolution of property disputes under the Family Law Act, a situation that does not currently exist. This is one example of many areas where same-sex couples are not getting equal treatment under the law. I have also been contacted by constituents of mine living in Unley, who have written to me about the need for the government to fulfil its promise to end discrimination against same-sex couples in public sector superannuation, another important issue and another area where we are not seeing action from the Howard government.

I would also like to announce that Labor’s spokesperson on these areas, the shadow Attorney-General, Nicola Roxon, will soon be putting forward a private member’s bill. This private member’s bill will have the purpose of prohibiting discrimination, harassment and incitement to violence on the grounds of sexuality or gender identity. I would call on the member for Leichhardt, in particular, but all members opposite, to support this important legislation.

There are many other issues which the gay and lesbian community will be calling on this parliament to speak on and to act on. Obviously one that has been contentious is relationship recognition and just how the parliament is going to address this issue. I acknowledge that this is a controversial issue, and there are certainly many differing views, both within the gay and lesbian community and also within the wider society. But I do not think that means that we should just ignore the issue and think that is some sort of solution. We must begin consulta-
tions within our communities, speaking to those with strong views on the matter and finding a way forward. There are a number of different scenarios and there are a number of possibilities which the parliament will eventually need to consider.

I would like to take this opportunity to invite members of my own community in the electorate of Adelaide who have strong views on this issue to feel free to contact me because I would like to consult with them as our Attorney-General continues to consult on a national level. As a parliament, we must do more to address issues of discrimination towards same-sex couples. (Time expired)

Havenlee Special School

Mrs GASH (Gilmore) (9.57 am)—There are days in parliament and days in the electorate that are very good as a politician and some that are very bad. Last Friday I happened to have a very good one. It was to do with the Australian government funding grant for the Havenlee special school, a very special school for very special students at north Nowra, that brought smiles to the faces of its students. A grant worth over $34,000 has enabled the school to install a device called a ‘liberty swing’, which is used to increase the participation of wheelchair bound students who are severely disabled. Thanks to Wayne Devine, an inventor, children with disabilities can now have as much fun on swings in the playground as their able-bodied mates. No more sitting on the edge and wondering what it would be like to fly through the air and feel the breeze on their faces.

In 1988 Wayne was struck by the fact that conventional playground equipment did not cater for children with disabilities. His heart sank as he watched able-bodied children laughing and enjoying the playground swings in his local park, while a child in the wheelchair looked on with envy. It happens quite a lot in the electorate of Gilmore with special schools. It was at that time that Wayne had the original idea of developing a swing for children in wheelchairs, a dream that has taken him 13 years to realise. This is what the ABC said on its Inventors program:

The Liberty swing is designed for use by disabled children confined to wheelchairs. It works simply like any other swing. It’s just bigger and more mechanically intricate and incorporates a ramp which allows a wheel chair to be loaded onto the swing. The ramp is fitted with a torsion spring to reduce the weight and also a picture graph showing how to lift and lower the ramp to prevent back injury. The swing is Australian designed and manufactured and meets all standards and safety requirements. It also has a secure locking device when not in use.

Wayne says the swings have proved so popular that some children and disabled groups have been travelling for more than 100 kilometres to use the equipment. I have no doubt of the therapeutic value of this device, and I am very glad that the Australian government has played an active role in assisting these needy students. I took the opportunity to have a go on the swing myself—and it was quite an experience. It really brought a smile to my face. I got strapped in, like all the children did, and the smiles on their faces when they saw someone like me having a go were a joy to behold.

In addition to the swing, the general recreation area at Havenlee special school has been improved and this will contribute significantly to the welfare of students at the Havenlee special school. I want to again thank the Australian government for the grant—through the Investing in Our Schools program, which has been a wonderful opportunity for schools—of
$34,000 to enable the school to install the liberty swing, which I know will prove to be extremely popular.

The DEPUTY SPEAKER (Hon. IR Causley)—In accordance with sessional order 193, the time for members’ statements has concluded.

FAMILY LAW AMENDMENT (SHARED PARENTAL RESPONSIBILITY) BILL 2005

Second Reading

Debate resumed from 28 February, on motion by Mr Ruddock:

That this bill be now read a second time.

upon which Ms Roxon 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:

(1) note 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;

(2) note 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;

(3) note 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;

(4) note 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; and

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

(5) note that 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;

(6) demand that the Government immediately release accreditation and quality standards for Family Relationship Centres prior to mediation becoming compulsory;

(7) note 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;

(8) note 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) note 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) note 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”.

Mr KERR (Denison) (10.00 am)—Those of us who make a contribution on the Family Law Amendment (Shared Parental Responsibility) Bill 2005 will reflect the diversity of views that exist within the parliament and within the broader community. I had the privilege of serving on the House committee that examined the legislation, the Standing Committee on Legal and Constitutional Affairs, and I thank the Attorney-General for the reference of the bill to the House committee. It is a practice that ought to be encouraged and carried out more generally in relation to substantial legislation.

There were difficulties in relation to the project that was undertaken. The time scale was relatively short. The bill was extraordinarily complex. The range of submissions traversed a wide range of those issues but also bristled with emotional feeling of a high order and reflected concerns that were expressed from extremes that the legislation was an inadequate response to the concerns of those who felt that the family law system was too far biased towards the interests of women—a view which I did not share and continue not to share—to the view that the moves the government was initiating undid some of the beneficial and effective legislative work that had been instigated by previous parliaments.

Having served in this parliament now for nearly 20 years and having experienced debates on this issue on a number of occasions, outside the House, within the committee system and in the House itself, I think it is fair to say that anyone who says that a particular piece of legislation brings together in a single form a uniquely best practice solution that will for all time resolve the complexities and satisfy everyone simply does not understand the difficulties that this parliament faces or the range of views that are actually held by those in our constituencies.
But I do think that the government, dealing with this matter, has broadly acted in a manner on which this parliament ought to feel some comfort. It has responded to concerns that were expressed by those who were critical of the existing law. Some of those critics are persons whose judgments I do not share; some were people whose understanding of the law was at best inadequate and at worst coloured by their own bitterness and personal experiences and an inability to see the world through the eyes of others. But most were struggling to try and assist the parliament in improving legislation. Through the committee work, the parliamentary examination has led to a number of changes which the government has adopted.

I want to say a couple of things about this parliamentary process. One of the things I would like to put on record is my concern that we denigrate the work that we do in the committee system—where we lay down our arms and strive in a bipartisan way to find solutions in the interests of the larger community—if, at the end of the day, political point scoring occurs after a report is tabled. In this instance I take those who may be listening to this debate or who read it to the fact that, in the examination that occurred in the House committee, there were extensive discussions characterised by good faith and attempts to reach sensible compromises but also by the recognition that, in any group of parliamentarians, unanimity of view would not always be possible on every point. This report contains majority recommendations, a number of dissenting recommendations from several committee members and one more substantial dissent from one of its members.

In relation to the overarching report, it is true that the majority of non-government members, me included, agreed in substance with the proposals for amendments that were supported by government members who were serving on the committee. I think that is a healthy thing and it reflects the way in which we approached this legislation. We approached it with the intention of trying to find our way through a very difficult area where no perfect solution was available—to find the best solution that could be brought forward to deal with the difficulties that the legislation was intended to address in a way which would be most capable of assisting families facing the tragedy of personal relationship breakdown, which would address the problem of how to deal with custody arrangements about children and which would address the issue of how to deal with disputes in the family law jurisdiction. Those disputes sometimes can be resolved amicably but, sadly, cannot always be. Within our ranks, the member for Gellibrand dissented in relation to a number of the recommendations for change that we agreed about.

I am troubled that, after the report was published and after further consideration was given to its recommendations and to the dissenting recommendations by the parliamentary Labor Party, attempts have been made to suggest that there remain divisions between the opposition spokesperson and ourselves because of the fact that, in its consideration of how to approach this legislation, the member for Gellibrand, who is the shadow minister, secured agreement from the parliamentary Labor Party, through its caucus, to support the broad framework of the legislation and most of the amendments, but not all, and to propose certain further amendments. Rather than showing conflict in the parliamentary process, that is a mature reflection of the way the political process should operate—that is, in committees we all give our consideration to the merits, not to the way in which our differences could be viewed later. If the views we take in a committee as individual members later are not adopted by our parliamentary parties, so be it. That is part of the robust nature of democracy.
We intend to work in a bipartisan and non-political forum in committees. If some members in committees take position A and some members take position B and that then is attacked outside of the committee system as division, what will tend to happen is that we will have to abandon bipartisanship. There will be pressure on committee members to agree on a partisan position internally so that they will not be criticised on the basis that they are not united. That will be extremely destructive of the value of submitting this kind of legislation to scrutiny within those committees. I believe that every one of the members who participated in the committee did so in the interests of achieving the highest value for the Australian community. I denigrate none. All of them—every single member—struggled with these difficult issues and applied their judgment as they saw best. They were not seeking to position their contributions in that parliamentary process with a view to a partisan advantage.

The debate about how Labor members of the committee took different positions does trouble me. Spokespersons and leaders on the government side have attacked the amendment moved by the member for Gellibrand on behalf of the Labor Party, on the basis that it somehow conflicts with the view taken by the majority of Labor members on the committee. In truth, the committee as a whole found common ground on 95 per cent of the issues before it, but there were areas of difference. Once the report was published, both its majority and its minority reports were entitled to full observation and adoption or rejection by the parliamentary parties. We sit, as members of the committee, trying to put aside those party decisions that have ultimately to be made. Each of us will advocate our particular points of view within our parties. Sometimes committee recommendations are rejected by governments; sometimes they are rejected by oppositions. That, again, is part of a mature political system.

Coming to the legislation more particularly, my approach to this is—I suppose crudely, and I will paraphrase it in this way—suck it and see. I am not overwhelmingly convinced that the fundamental starting point of requiring everybody to undertake compulsory counselling and mediation before entering the Family Court system is in fact going to increase satisfactory outcomes. I hope it does. I am prepared to suspend any cynicism about that. If it does and if it is successful, I will be the first to recognise it and say, ‘Well done.’ I approached the work within the committee on the assumption that the fundamental policy decision of requiring family relationship centres had been made and we had to make it work as effectively as possible. I think that was the correct position to take. But I suppose I still have some residual hesitation about the capacity to compel people to mediate and to find constructive, negotiated solutions if their approach is one of compulsion—if they do not really want to attend the process but they will just see it through and then go on to the next stage.

I hope I find that the family relationship centres that have been established are resourced sufficiently and are professional enough to mean that people, even if they go in reluctantly, gain something through that process, that their reluctance falls away and they achieve agreed outcomes without the need for contentious litigation. That is to be desired, to be hoped for, and I hope that is the effect of the establishment of these family relationship centres around Australia. I suppose just my own experience over a very long period of time is that negotiation and mediation work best when people enter them with some spirit of cooperation and in a voluntary way. The degree to which you can force unwilling participants to find common solutions without adversarial processes may be more limited than the hopes of those who are proposing this legislation justify.
But, that said, once you accept that proposition these changes I think are substantially an
advance. I do not pretend they will resolve every issue that is going to come before the family
relationship centres or, later, the courts, if that process does not lead to resolution. I do not
pretend that anything can remove the concerns of those who have submitted the more extreme
submissions at either end of the case for and against this legislation. But I do believe that
broadly the recommendations that will be implemented take us closer to where the Australian
community would wish the system to operate, particularly the starting point assumption that
each parent has a considerable amount to offer in terms of their capacity to provide ongoing
care and love for their children, that the court should be mindful of that broad intention that
the parliament is seeking to implement in this bill, but that fundamentally we are not moving
away from the capacity to make a judgment that, in the best interests of the child, arrange-
ments other than a simple mathematical division of the time that each parent will be permitted
to have with the child are possible or even desirable.

I believe that there was no committee member who took the view that you could approach
the family law task of assessing care arrangements for children on the basis that you can sim-
ply divide the time in two and say that that task was done. It is not a suitable starting point.
We rejected that underlying proposition and we maintained the starting point that has under-
scored family law acts since their introduction—that the best interests of the child should be
paramount, notwithstanding a starting point that the courts are more specifically directed to-
wards: making certain that the interests of each of the parents of the child are properly taken
into account also.

The other important point I would like to make in relation to these difficult issues is that we
do need to make certain that the family relationship services and centres are properly accred-
ited. The quality of those centres will be central to the success or otherwise of this legislation.
Presently there is no effective accreditation system for those centres and, more troublingly, as
we discovered through the inquiry, there is no effective licensing or accreditation system for
the services that offer supervised access in cases where the courts or agreements require that
supervised access be provided. That is a real weakness that this committee identified almost
as a by-product of its larger work but one which stands out. How we have allowed that system
to stand so central to effective and harmonious workings of the arrangements that are often
ordered in this area without making certain that we have an effective licensing regime in that
crucial area is I think troubling to all members of the committee that heard that evidence.

The family relationship centres need proper resources. They need regular appraisal of their
funding needs. The services have to be free, in substantial part, for adequate initial negotia-
tions and services. There need to be benchmarks to ensure that the services do not discrimi-
nate on the basis of religion, age, disability, gender or economic advantage—to make certain
that they are not used as advocacy points for any political or religious agenda. And it is impor-
tant that the government immediately release the accreditation and quality standards for the
relationship centres before mediation becomes compulsory.

With those remarks, I will close my contribution in this debate. I do not pretend that this is
the end of all discussion about family law improvements. It cannot be. We will not have a per-
fected product after this, but I think we have reason to be pleased with the way we as parliamen-
tarians have addressed this contentious issue. (Time expired)
Miss JACKIE KELLY (Lindsay) (10.21 am)—Mr Deputy Speaker Causley, may I agree with the member for Denison’s concluding remarks, which you so generously let him finish. This is not the end to family law disputes. Obviously, when the report Every picture tells a story came out, there was a lot of discussion about that. That report was well overdue. There had been significant changes in families in Australia since 1975, when the Family Law Act was first thought of and the court systems were set up, with ways of resolving these matters with less than full courts, on a no-fault basis, with the interests of the children or other matters to be considered.

I am reminded of a car ad—which is obviously not as successful as I think it is, because I cannot remember the name of the vehicle, but it is a four-wheel drive, possibly a Ford Territory. As it goes down the road, it changes from a car with a couple and the extra kids in it; then the dad is out of the car and there is a single mum; then the blended family jumps in; then we have empty-nesters—the kids have gone off. It really taps into what is happening in Australian society at the moment—that journey of families through the Australian culture. We have a vast array of types of families that we did not have in the seventies or eighties. We need to be focusing on parenting for better Australian citizens, citizens who are going to grow up to be contributors and net givers, not net takers.

I think everyone knows that I represent some singular pockets of hardship in Western Sydney that have a number of issues. In my area we are affected by a number of those social trends, in terms of the total absence of a father in children’s lives. I quite regularly see young males—say, 18 to 25 years old—who just cannot cope, and they walk completely away from their parenting responsibilities. The mother is on a very low income and generally may see $5 a week—although, if our changes occur, she may see $6 a week—but, at the end of the day, it is small compensation for not having someone doing the heavy lift with you.

I know, as a mother, that my husband’s parenting methods often leave me horrified because they are not something that I would do, but certainly my young son just loves a good rumble, a wrestle. I feel that a male’s way of parenting and interacting with his children is different from what I do as a mother but equally as important. It allows you respite between the demands of children and other things in your life, and it really is probably the easiest way of raising kids and giving them some options, some character traits from both parents, to choose from as to what they would like to emulate and the type of person they would like to be.

That is not so for a lot of children in my area. We are now at a point where 50 per cent of marriages break up and 30 per cent of children are born to unwed mothers. That does not mean to say that they are not financially capable of raising their children, but it is about the commitment to relationships and to everything that is involved. The member for Gilmore mentioned the Liberty Swing that was installed in her electorate through our school funding grants. A similar swing was installed at Kurrambee School, a school in my electorate for children with disabilities. I often marvel at the mothers who get a particular blessing from God and how they manage. Extraordinarily frequently it is a situation where the male in that relationship cannot deal with it and the mothers are left to go on alone. They do so most commendably and do the best they can.

So life chucks all sorts of curved balls at you, but at the end of the day you have to raise your children and as a nation we have to look at how our children are being raised. I see too frequently children figuratively grabbed by the ankles and used as baseball bats by parents to
beat each other up over a failed relationship that they are feeling very bitter and torn about. They are so involved in their own emotions that they cannot see what they are doing to their children.

I make no bones about it: I certainly stood up in the party room and backed the tribunal option, where we would have a specialist tribunal that is inquisitorial, not adversarial, and one that can call its own evidence in the child’s best interest; where someone sits out the front with the skills to elicit from a mum and a dad, grandparents, cousins and extended families on both sides what support a young person needs to get their best go in life. It is not an order for one point in time; it is a rolling thing that goes with that person through until they are 18. Even if there is a dispute about the wedding, such as where mum is going to sit with her new partner and where dad is going to sit with his new partner, you could still keep coming back to this tribunal.

That tribunal did not eventuate. As with most things, life is generally a compromise, as the member for Denison put it, and I do not think anyone in the parliament quite got their vision of what needed to be done with family law. I think we all have a different point of view on what to do and most of us are sitting back and saying, ‘We’ll suck it and see.’ So we are going through with the family relationship centres. Certainly, they are a lot less costly than a tribunal. I have found that family law courts tend to become massive and expensive; that they start out as tiny tribunals that are supposed to fix things in a quick, efficient and cost-effective way but somehow end up as huge bureaucracies.

We have gone with 65 family relationship centres throughout Australia. The first 15 were announced, and the first one was in Penrith, in my area. That is no surprise, because my electorate and the electorates of Chifley and Greenway are largely areas with many very young children. These areas present particular challenges in terms of giving children the best start in life, as we often have to deal with young people who do not have verbal or other skills to cope with some very complex human emotions.

In one recent instance, a young fellow found out his partner was not faithful. He responded in a very Hollywood manner by kicking the wall, breaking doors, smashing furniture and carrying on. That situation ended up with apprehended violence orders that have gone on and on. It was over two years before he saw his child again. In my experience, he has a very supportive family with very involved grandparents. He is not a bad father and, with maturity and growth through life, this young man can make a really significant contribution to his children’s lives. So I think it was important to amend the existing definition of ‘family violence’ in terms of what is reasonable. What is reasonable given, for example, a person’s education and emotional maturity? Where do they get their learned responses to situations? Are they just acting out a sort of Hollywood drama or are they genuinely violent and a threat to their children and spouse?

I have experienced a lot of that sort of thing in my electorate. There are young men in my area who do not say, ‘Excuse me,’ but just biff their mate to get their attention. You can interpret that as violence, but it is where they are at in their lives, and I do not think it precludes them from being very caring and interested parents if they are given the chance, with a lot of input into what parenting means and what their responsibilities are as a parent. Hence I was thrilled when it was announced that the first family relationship centre was to be located in Penrith in my electorate of Lindsay.
The family relationship centres offer a tremendous change from the current situation. I hope that over the next three years of the operation of these centres we will see a cultural change so that parents do not make a first phone call to a lawyer, so that they will actively seek out parenting guidance on being mentors and role models for their children and that they will learn better ways of playing with their children and all sorts of other valuable skills, even if there is no chance of resuming their primary relationship. They can learn how to introduce subsequent partners or spouses into their children’s lives. I see a lot of very torn children who experience a revolving door of partners in their custodial parent’s life, which makes it very difficult for them to recognise a committed relationship, to have role models and to develop guidelines and the behaviours necessary to sustain those relationships long term, and they go on to have failed relationships themselves.

This is a landmark development. It is about enforcement, which is another complaint a huge number of people have made to my electorate office. The frustrating part of this matter is the amount of time my electorate office devotes to family law issues and child support issues. This should not be a political issue. It needs to be resolved out there in the community through the bureaucracies and structures we have in place. If this matter is coming into my electorate office, clearly there must be a political solution and we need to have the gumption to get up and do something about it. That is effectively what this bill does and what our announcement yesterday on the Child Support Agency does. We are taking some very big, bold, hard steps towards a different environment. I think there will be some mid-term angst and I expect that the phones in my electorate office today will be ringing off the hook over yesterday’s announcements. But in the long term I think we will see social changes so that there is an expectation that separating partners will take the view that: ‘I will be involved in my child’s life. Let me examine what that involvement will be and how I can best manage that and be the biggest contributor to it that I can. Let me examine how I can assist my ex-spouse or my ex-partner to successfully negotiate the raising of future Australians.’

There are some enormous issues out there. It is a tremendously changed world, for a crusty old conservative female. I shake my head sometimes and think, ‘Some of these kids don’t stand a chance.’ It almost started two generations ago with the breakdown in their own parents’ relationships. It is so difficult to mend. It is so emotional. People on low incomes do not have a huge amount of resources and quite frequently do not qualify for legal aid, and they walk away from situations and responsibilities. One fundamental thing that comes through in this bill is the child’s right to know its parent. If, when that child is a teenager, he finally decides that either one of his parents is an emotionally stunted, self-centred, immature, irresponsible git, that is fair enough. But he knows the parent well enough to make that assessment of their character instead of having a sense of abandonment that some imaginatively wonderful person just left them because he was not good enough. This is an incredibly important part of this bill. A child needs to know its parents. It needs to know both sides of its family.

I heard an incredibly sad story. It involved drugs. The mother had custody. Again, the father had just walked away—it was too hard; he was too young. He had got himself on the methadone program and eventually got a phone call out of the blue, when he was living in a friend’s caravan, to say, ‘Come and get the kids.’ He was dumped with kids of six and seven. Suddenly the children were abandoned with their father, who subsequently did a great job for a few years but died in incredibly unfortunate circumstances. The children are now with the
paternal grandparents. You do not know what life is going to throw at you. Knowing both sets of grandparents and maintaining a relationship with both sets of grandparents is incredibly important. Grandparents need to be considered in the solution to what is in the child’s best interests.

I have seen the whole gamut of family relationships in my electorate—from the very wealthy and educated couples who impact terribly on their children to people who really were just too young and too ill-equipped to deal with the strong emotions that they felt and have taken incredibly bad parenting decisions. If nothing else, this bill reaffirms this parliament’s commitment to the children of Australia that we can do it better, that we can have a cultural shift where children know their parents—that is, where they know their parents at their worst and at their best—and know their grandparents. We see a huge change in this bill in access and enforcement of access. It goes to the point of quid pro quo—that is, make-up time—and even to community service for offending parents who spuriously decline access. I think that is a move in the right direction. Long term we will see some very significant changes in how adults deal with tough emotional times. They should not be impacting on the children the way that they do.

I suppose I am like the member for Denison—let’s suck it and see. Let us really see how we go with these massive changes. But, again, if they do not work, let us still have the courage as a parliament to come back and revisit this very difficult issue. It is not something that is going to go away. I am sure that 10 years from now the society in which we live will have even more complex problems, and we should never walk away from something that is just too hard and say we cannot do it. These issues create an enormous amount of work for me and my electorate staff. I want to take this opportunity to thank them very much for the caring attitude that they take towards the people who front up at my office. I do hope that their workload will be diminished by the measures in this bill, which will better equip us to help resolve these issues out in the community.

Ms KING (Ballarat) (10.41 am)—In speaking on the Family Law Amendment (Shared Parental Responsibility) Bill 2005 I want from the outset to set out the principles that I think are central to this debate. Central to this debate for me is that it is the responsibility of both parents, whether they are living together or apart, to provide a loving, nurturing environment for their children to grow up in—one where they are safe, they are encouraged and they learn to develop into strong adults, free from fear and knowing that they are accepted and loved. That is the responsibility of both parents, whether they are living together or apart. Too often over the course of discussions on changes to family law the debate degenerates into one of parental rights. Whilst of course in any change to family law we need to respect and consider the rights of parents, for me it has always been a secondary issue to the responsibility that parents have towards their children.

In the course of my time as a social worker, which was a long time ago now—and even now as a federal MP—I have seen many cases where this responsibility has been abrogated. I have seen children living in desperate circumstances, having to lie for drug affected parents. I have seen children, many of them deeply troubled, who hardly know their fathers, having been abandoned by them before birth. I have worked with young people who have been dumped by their mothers with grandparents or on the state, with little hope of ever having a relationship with either of their parents. I have seen children whose parents—overwhelmingly
women—have been subjected to unimaginable violence by their partners, women barely able to lift their heads to look you in the eye to speak to you. I have seen children and young people so badly abused that there is little hope of them having any type of normal adulthood. I have seen grown adults behave in the most spiteful and despicable way towards each other—children manipulated, tales told. I have seen grandparents saddened by what has happened to their children and desperately wanting to continue contact with their grandchildren.

I have seen men bemused and grief stricken by the loss of their family, completely bewildered about what has happened to them. I have seen families working out new ways of being together but apart. And I have seen the extraordinary resilience of kids and the wonderful role that can be played by grandparents as peacemakers and refuge. I have seen parents desperately trying to make new lives for themselves in blended families and trying to make it work.

All sorts of circumstances come through my office—men whose wives have left them for seemingly inexplicable reasons, who have had a desperate, ongoing battle to see their children; men living in impoverished circumstances who genuinely want to do the right thing but who seem to hit brick walls at every turn. But I have also had men demanding, in the most explicit language, that their former wives are little better than streetwalkers and threatening to kill their children if they are not returned to them.

All of these circumstances are the human face of this legislation. They demonstrate most clearly that it is impossible for us to legislate for every circumstance and every human behaviour—we just cannot. The best we can do is to try and make sure the family law system has at its core the notion that children are better off where they can have a relationship with both parents; a family law system where those subjected to abuse and violence are absolutely protected and where parents are given every opportunity to work together in the best interests of their children and do not treat them as property to fight over. That is why I come to this debate with very strong views that the debate must be about parents sharing their responsibility for children, not parents having equal rights over their children.

The test for me with this legislation is: do the proposed family law changes support this? On the whole, they do, through a number of new provisions. Schedule 1 of the bill introduces the presumption of shared parental responsibility. This is based on the presumption that it is in the best interests of children for both parents to share responsibility for decisions about them, and I actively support this provision. The schedule requires joint decision making and consultation over major long-term issues, with these being defined widely, but not exclusively, as including issues regarding education, religious and cultural upbringing, the child’s health, the child’s name and changes to living arrangements that would make it significantly more difficult for the child to spend time with the parent. I am a little concerned, I have to say, about the practical application of this provision, but I am prepared, as the member for Lindsay has said, to suck it and see. The presumption of shared parental responsibility will not apply if there are reasonable grounds to believe that one of the parents has engaged in child abuse or family violence, and I want to go back to that provision later in my speech.

Shared parental responsibility is a different concept from, and separate from, residence and the amount of time children may spend living with one parent or the other. Whilst the schedule does not contain a presumption of equal time, it does require the court to consider equal parenting time when making parenting orders. Again, the court needs to take into account the best interests of the child as well as examine whether it is reasonably practicable. While some
groups continue to lobby for equal parenting time, I think the balance provided by the legisla-
tion is a sensible way forward and follows the recommendations of the report *Every picture
tells a story*.

Schedule 1 also changes the process for determining what is in the best interests of the
child, including taking up Labor’s suggestion regarding parental obligation. The court will
now need to consider the extent to which parents have actually fulfilled their responsibilities,
including whether they have participated in making decisions about major long-term issues,
spent time with their children, communicated with their children and maintained their chil-
dren, and also the extent to which a parent has facilitated or hindered the other parent taking
up these opportunities. I think this provision in particular makes sure that the law looks at the
responsibilities that both parents have in parenting their children.

Schedule 1 also requires parents to try and resolve matters before they can get to court,
through compulsory mediation and giving greater legal effect to parenting plans.

All of these measures act on the need to give parents every opportunity to come to a mutu-
ally agreed arrangement about the ongoing care of their children. It does not remove the right
of parents to have a court make that decision where they are unable to reach agreement, but it
does require parents, except in the cases of abuse and violence, to make every reasonable at-
tempt. Where these attempts fail, the government needs to be more explicit that litigation is a
pathway for families where there is violence or abuse, entrenched conflict or intractable dis-
putes.

One of the areas of concern about the bill is whether it adequately protects children and
their parents who are subjected to violence. I am really concerned that somehow in this debate
there has been a trivialisation of family violence. The government has changed the definition
of ‘family violence’ to require the victim to ‘reasonably fear for’. The concern is with the in-
sertion of the word ‘reasonable’ and whether it will drag the court into consideration of what
actions are and are not grounds to be reasonably fearful. Frankly, it is entirely subjective as to
whether you feel fearful or you do not feel fearful.

I am concerned particularly about some examples quoted by the member for Lindsay where
fathers, in reacting to some of the things that had happened within their families, started to act
out quite violently by kicking walls and becoming quite abusive. It is not acceptable behav-
ior to violate property or to become abusive out in the public. Why should that be acceptable
in a family relationship? It never is. I am really concerned that those sorts of comments are
trivialising the experiences of many women—and it is mainly women, but not exclusively
women—who experience violence in their family relationships, sometimes all the time, but
particularly at times of great stress when there is a family break-up. The tone of the change is
that people complaining of violence cannot really be believed. That is the most concerning
part of this.

The issue is further compounded by the introduction of a cost penalty against persons who
knowingly make false accusations of violence. Again I am extremely concerned that both the
change in definition and the introduction of a cost penalty are clear indicators that the gov-
ernment seems to believe that allegations of violence, whether by women or men, are made
vexatiously. Given that we know that there is serious underreporting of family violence in this
country, I am worried about the signal both of these changes are sending to the victims of vio-
lence, particularly when we have spent so much time trying to get women, in particular, to
report. The government, responding to Labor’s criticism, has now announced an inquiry into family violence. I hope that this inquiry looks very closely at the interactions between the provisions contained in this bill and the reporting of violence.

One of the other concerns I continue to have with the bill is the government’s roll-out of the family relationship centres, where compulsory mediation is to take place. The tender process and the decision as to where these centres were to go were dodgy, to say the least—decided by a group of Liberal backbenchers with no specific qualifications, expertise or understanding of family relationship counselling or of how communities, particularly regional and rural communities, access services. There is little information available about the accreditation of these centres. What happens if parents are unhappy with the quality of counselling? Indeed, what quality controls are there on the counselling at all?

As someone with a four-year degree in social work, I am particularly interested in what the qualifications and experience of these counsellors will be. In this day and age it appears that anyone who does a one-week counselling course is able to put out their shingle and claim to be a qualified counsellor. Given the complexity of family relationships, the probability is that counsellors will at some point in the course of counselling uncover family violence or sexual abuse. I would be concerned if people without formal university qualifications and several years experience were undertaking this compulsory mediation.

The government needs to release accreditation and quality standards for these centres. It needs to establish a complaints process and make sure it is properly resourcing these centres and evaluating their effectiveness. Nothing in this legislation or in the government’s words so far has convinced me that it knows what it is doing with these family relationship centres.

It is difficult to have a debate about changes to the family law system without also having a look at what the government is doing—or, rather, not doing—to support families. The pace and pressures of everyday life and the continued stream of bills and debt do not make things easy for struggling families. Many break-ups and family disputes occur over money. In this context it is vital that the government realise that its responsibilities to families are broader than simply this legislation.

The government likes to talk about the importance of strong families, but its policies often undermine them. If we cast our minds back to the last federal election, we will remember that the government promised with great fanfare that it would provide families with a 30 per cent rebate for out-of-pocket child-care expenses. The 30 per cent rebate was promised in September 2004. However, not one parent has seen a cent and they are not likely to until the end of the year. Even then, parents will only get part of what is owed to them. Many families are paying up to $90 a day for child care and it will not be until December 2006 that parents will get a rebate on money they spent in July 2004. Unfortunately, household bills cannot be put on hold until December 2006. The reality for many families is that they need the money now—not in two years.

The government’s neglect of families does not stop at child care. The industrial relations reforms are a perfect example of the government’s failure to provide support to struggling families. The industrial relations reforms strip Australian families of job security, a good balance of work and family, financial stability and the ability to secure a solid basis from which to raise their children. If the Howard government does not believe that this will fundamentally affect the happiness of the family household, then it is even more out of touch than I thought.
What about taxation? Perhaps if the government tried to provide genuine relief to families through tax reform, we might have some hope. But the last figures reveal that households today are paying on average an extra $10,500 in tax compared to what they paid in 1996. Typical Australian families face the second highest effective marginal tax rates in the OECD. Australia’s top marginal tax rate is rapidly becoming uncompetitive by international standards, currently ranked ninth highest in the OECD. Family income is highly dependent upon taxation issues. I hope that the recent so-called inquiry that has been launched looks at the impact of the tax system on middle- and low-income families.

Health and education are two areas that weigh heavily on the minds and purses of families. Whilst the Prime Minister does not sit around the kitchen table concerned about how he will meet his family’s medical or educational expenses, millions of Australian families do. Under the Howard government, families have seen health and education fees increase by over 40 per cent. Families, especially those whose relationships are stretched, need a government that creates the security and support that will allow them to spend the weekend with the family rather than at the workplace. They need a government that provides affordable and accessible child care so that work and family commitments can be balanced. They need a government that takes away financial pressures rather than creates them. In short, they need a government that is going to do a whole lot more to support families.

I, alongside many MPs in this place, have received lots of emails on the changes to family law. On the whole, they have been from men and, on occasion, their new partners. Many of them have told of desperate stories and I have much sympathy for their cases. Some—in the minority—were downright abusive, sexist and violent and did their cases absolutely no good at all. To those men’s groups that have lobbied so hard for changes in family law and who are disappointed that the presumption of fifty-fifty equal parenting time is not the basis of change to family law, I want to say to you: sheet the blame home to where it belongs—with the Prime Minister.

The Prime Minister falsely and, I would argue, deliberately raised the expectations of men’s rights groups as to what the outcomes of the inquiry into family law were going to be. The Prime Minister was never going to deliver on this. He deliberately dangled this bait in front of men’s groups and they swallowed it—hook, line and sinker. He effectively dog whistled to men’s groups, and if they are angry at anyone it should be at the Prime Minister for raising their expectations for something that he was never going to deliver on. So, whilst I support the intent of the bill and the second reading amendment moved by the member for Gellibrand, I also condemn the Prime Minister for falsely raising the expectations and hopes of many men who are grief-stricken by their experiences of the family law system.

In conclusion, I want to go back to where I started. For me, the core principle of this debate has to be that it is the responsibility of parents, whether living together or apart, to provide the best possible environment for their children to grow into healthy adults. The law cannot force parents to act responsibly but it can attempt to provide them with every opportunity to do so. The rest is up to them.

Mr HENRY (Hasluck) (10.57 am)—The Family Law Amendment (Shared Parental Responsibility) Bill 2005 represents the most significant changes to the Family Law Act 1975 since its inception some 30 years ago. This bill amends that act to implement a significant number of the recommendations of the report Every picture tells a story, produced by the
House of Representatives Standing Committee on Family and Community Affairs inquiry into child custody arrangements in the event of family separation. The bill also implements most of the recommendations made by the House of Representatives Standing Committee on Legal and Constitutional Affairs in its report on the exposure draft of the bill, the LACA report.

The amendments are part of the Howard government’s reform agenda in family law. The legislation underpins the measures announced in the 2005 budget, at an estimated cost of $397 million over four years. These initiatives represent a real change in family law and I am pleased to have the opportunity to speak to them today. They aim to change how family separation is managed, getting away from costly and stressful litigation and towards cooperative parenting. I agree entirely with the member for Lindsay that the child’s right to know its parent has to be paramount in this process.

These changes to the Family Law Act will be welcomed by my constituents in Hasluck. I have spoken with many parents—mothers and fathers—and grandparents in my electorate who feel alienated and persecuted by our family law system, who are divided by separation and who feel that they are cut off from their children and grandchildren and that the children are cut off from them. I have been struck by the amount of contact I have had from people supporting the shared parenting policies put forward by the Howard government. It is difficult for any government to strike the right balance in family law matters. Family breakdown is difficult for everyone involved—parents, extended family, friends—and perhaps most difficult for children.

More than one million Australian children have a parent living elsewhere. One in four children never sees one of their parents or sees them only once a year. It is terrible to think that so many kids essentially have to do without one of their parents. It is terrible to think how much time and money are wasted on battles in the Family Court—time and money which could be spent with children. I think that parents spending less time in court and more time with their kids can only be a good thing for everyone concerned, and that is the core aim of this bill. The Howard government wants to ensure that children have a right to know both their parents and, where possible, to encourage parents to continue to take shared responsibility for their children after they separate. This bill also has an increased focus on protecting children from family violence and child abuse.

I receive hundreds of emails and letters every month regarding family law matters. It is a major issue in our communities across Australia. These letters and communications are all looking for assistance, a way through this problem that we have put in front of them through the Family Law Act in the past. In the main, these communications are from fathers who have little or no access to their children, but they are also from mothers and wives supporting their concerns and their feelings of alienation. They become depressed and angry, or both, and they feel very frustrated about the system, the lack of outcome, the lack of resolution and the lack of support. More importantly, their children are denied the opportunity to build a relationship with one of their parents. I will quote from some of the emails I have received in recent days. The first one says:

All I wish is for equality, yet the very system in place is anything but that. Having been denied access in all manners, whilst property settlement was in progress, I was totally powerless in that process. Now I am in receipt of court orders, duly signed by my ex-wife for access compliance, what do I get non-compliance, in seeing my children, a deeply hurtful feeling.

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Another one says:
Not only am I struggling which is effecting how much I have my children, I found out the other day that my children’s mother is now working and has been for who knows how long. The CSA has stated to me that they can not do much until I have the children more. HOW CAN I WHEN I CAN HARDLY AFFORD TO KEEP MY HEAD ABOVE WATER EACH FORTNIGHT. Come on peoples do something about it and I know I am not the only parent that is in this situation.

And from a mother and wife, which I think adds a certain poignancy to this whole issue:
I am a mother of nine year old boy and a 4 month-old baby boy. I also have 2 step children a 10 year old girl and a 7 year old boy. Together we are a blended family of 6.

She goes on to say:
... as I came to know my husband the more I realised there was absolutely no reason why he should be banished from being with his children. He talked about them constantly and interacted with my son so well. His children were being used as a WEAPON against him a means to make him feel so low so bad so down.

We have just finished a battle that went on for 5 years in and out of court so he could have adequate access to his two children. HOW SAD!!!
How sad for those two children, was it their fault that their parents relationship didn’t work out??? Of course not yet they as their father was punished.

I can relate to those sentiments; I can relate to the emotions and I can relate to the frustrations. I have total empathy with this whole situation, having unfortunately experienced these circumstances myself. I think that in the past there has been an assumption that the father-child bond is somehow less strong than a mother’s bond with her children. This bill recognises that this rather insulting assumption is fundamentally flawed.

This government is committed to three major changes to how the government helps people deal with family breakdown. The first is a package of almost $400 million over four years for new community services to help reduce conflict in families. The second is the government’s proposals to reform the child support system, and the third relates to the changes to the Family Law Act that are covered by this bill. Each of these very welcome changes promotes shared or cooperative parenting after separation. However, the paramount consideration for the court will continue to be the best interests of the child.

Amendments contained in schedule 1 support cooperative parenting and further the coalition’s longstanding policy of encouraging people to take responsibility for resolving disputes themselves in the first instance. This bill provides for a presumption of equal shared parental responsibility. This means that both parents have an equal role in making decisions about long-term issues for the benefit of their children. This seems to be a policy of extraordinary commonsense. In fact, it is remarkable that such a commonsense approach can be so revolutionary. Since its inception, the Family Law Act has been dogged by flawed and unfair assumptions, poorly thought out enforcement mechanisms and onerous bureaucratic procedures. It is wonderful to finally see the fingerprints of the Whitlam government slowly being erased from the Family Law Act.

It is interesting to note some of the comments of the previous speaker, the member for Ballarat, who would like to see, I am sure, a licensing system and a regulatory system around family counsellors to make sure that they have got the experience or the university qualifica-
tions. But there was no mention of compassion, empathy or understanding of the situation—just some black-and-white qualification. That is not the human way of addressing these issues.

As a result of these changes, the court will be required to consider children spending equal time with both parents. One can only applaud such a suggestion. This only applies where it is reasonably practicable and in the best interests of the child. Equal time works for some families, but if it is not appropriate the court must consider an arrangement for substantial and significant time with both parents. This means more than just weekends and holidays. It means doing the day-to-day things with children and having the opportunity to do those things which form the bond between a parent and the child. The right of children to know their parents and to be protected from harm will be the primary factors in deciding the best interests of the child.

The bill will address concerns about the existing definition of 'family violence' to introduce an objective test. There is no requirement for reasonableness with respect to violence that has actually occurred. However, an apprehension or fear of violence must be reasonable. I do not condone violence in any form, but current provisions have been too easily abused, smearing the reputation of many loving and devoted parents and denying them access to their children.

The bill will require people to attend family dispute resolution and make a genuine effort to resolve the dispute before applying for a parenting order. This requirement does not apply where there is family violence or abuse. Breaches of court orders are a major source of conflict and distress, in part due to the difficulty of enforcement. Schedule 2 of the bill strengthens the existing enforcement regime in the Family Law Act, giving the courts a wider range of powers to deal with people who breach contact orders through the ability to impose costs, orders, bonds, make-up time and compensation.

I am pleased to say that these reforms make sure as many children as possible grow up in a safe environment with the love and support of both parents. The family is the building block of our society, and it is important that government provides a reasonable framework for resolving family disputes. This bill makes important improvements to that framework, and I commend it to the House.

Ms ANNETTE ELLIS (Canberra) (11.08 am)—I rise today to speak on the Family Law Amendment (Shared Parental Responsibility) Bill 2005. This bill will improve the Family Law Act 1975 in several ways. Generally, it aims to encourage parents to take more responsibility for their children after relationship breakdown. It proposes alternatives to the legal system to try to resolve disagreements. It improves the legal process. And, most importantly, it makes children the priority following family breakdown.

I would like to reflect, if I can, for just a few moments. It may be 10 years for the Prime Minister this week, but it is also 10 years since I was elected to this place. In those 10 years, in my work in my electorate, I think I have probably seen almost every variation that one could possibly imagine in terms of family law and family breakdown and the situation that parents of both genders find themselves in when going through such a situation. I know that it would be very rare to find a member in the House who has not had that same experience. I think it is dangerous to generalise too much by saying that one side is worse than the other. I have seen men who have been left by their spouse and have taken years to get over the emotional trauma of that. I have seen women who have been the custodial parent, if I can use that
term, who have faced the most unbelievable behaviour by their ex-partner in an attempt to do anything possible to avoid the payment of money. I have seen courts give access to both parents, with one of them just not interested in pursuing the access of their own volition. I think we have experienced everything you could imagine.

I am saying those words because it is important for me to have an opportunity to express how difficult in real terms it is for legislators to always get it right. I am pleased that this bill is here and that attempts are being made to alleviate and remove some of those difficulties. It is also fair to say that the bill probably will not be the perfect bill, because of the elements of human nature, human behaviour and human emotion we are dealing with. It is very important for me to have the opportunity to say that.

Nevertheless, we are here debating this bill. I am particularly pleased that the Attorney-General backed down from his original draft of the bill and adopted our call for family law to recognise parental obligations to children and not to focus simply on parental rights. It is absolutely essential that the needs of the children come first. The principle of the best interests of the child should always remain the paramount consideration in resolving all parenting disputes. Family law should not be a tug-of-war between mothers and fathers; it should be about what all parents can do for their kids.

Unfortunately, in my observation, Howard government policies in some cases are actually putting more and more pressure on families. These include some of the industrial relations reforms and some of the child-care shortages that are being faced. This can place additional pressure on families, maybe leading to further family breakdown and financial pressures. It can also make shared parenting virtually impossible for separated parents who need to work, particularly when we are talking about child care.

It is pretty disgraceful that the Howard government has refused to undertake to produce or release family impact statements for its new policies. However, I turn again more directly to the bill. I will discuss some of the reforms outlined in the bill and some amendments proposed by Labor which we believe very strongly will improve the bill.

Schedule 1 deals with the issue of shared parenting. The bill will require the court to apply a presumption that it is in the best interests of the child for parents to have equal shared parenting responsibility when making parenting orders. In this context, parental responsibility does not necessarily focus on contact or time with the child. It is defined as ‘all the duties, powers, responsibilities and authority which, by law, parents have in relation to children’. It includes decision making on important issues like education, religion and health. The current law allows for equal shared parenting responsibility, but it is not the basic presumption, so this is a great improvement. The presumption will not apply if there are reasonable grounds to believe that one of the parents has engaged in child abuse or family violence.

Schedule 1 also requires the court to consider— and I repeat ‘consider’— equal time, that is, fifty-fifty with both parents, if it awards shared parental responsibility. It is important to note that there is no presumption of equal time with each parent, but the court must consider this option if it awards shared parental responsibility. Presumption of equal time has been rejected across party lines by the House of Representatives Standing Committee on Family and Community Affairs in its report Every picture tells a story.
I am pleased that the government has taken up Labor’s proposal that, when considering the best interests of the child, the court should consider the extent to which a parent has fulfilled or failed to fulfil his or her responsibilities as a parent. This includes whether a parent has taken or failed to take the opportunities to participate in making decisions about major long-term issues, to spend time with the child and to communicate with the child. The court must also consider the extent to which a parent facilitates the other parent taking up these opportunities and the extent to which a parent fulfils their obligations to maintain the child. Labor believes that it is essential that the government undertake thorough longitudinal research on family outcomes following the introduction of this legislation.

Schedule 1 of this bill also introduces compulsory family dispute resolution for separating parents before they can commence court litigation, with some exceptions. Whilst Labor supports this schedule, we are proposing a range of amendments to make sure that separating parents can access a quality mediation service, including three hours of free consultation, which the government has talked about but which is not mentioned in the bill. It is also important that separating parents do not have to go through mediation if the court is satisfied that there are reasonable grounds to believe there has been or there is a risk of family violence or child abuse. Labor are concerned with the wording of this exception because of the government’s proposed new definition of ‘violence’. Schedule 1 of the bill amends the definition of ‘family violence’ to require the victim:

... reasonably to fear for, or reasonably to be apprehensive about, his or her personal wellbeing or safety.

The word ‘reasonably’ has been inserted, and it will make it an objective definition rather than a subjective definition. Labor’s concern about this is that the court will now have to decide what is and is not conduct that would reasonably cause fear, which implies that some forms of threatening conduct are acceptable. The other concern is that it may not take into account the previous experiences of the victim, such as a history of physical abuse, which may make the person more inclined to feel fear in circumstances where another person might not. It will make it more difficult for victims of violence to prove that they are at risk. Labor has proposed several amendments to deal with these concerns, including deleting the word ‘reasonably’ from the current definition of family violence.

The bill also introduces financial penalties against people who knowingly make false allegations about violence. This is a very complicated issue, and Labor is moving an amendment which will delete this provision based on the concern that it might dissuade those who have genuine concerns about violence from raising them. Family violence can be notoriously difficult to prove and people might feel it is not worth the risk that they will not be able to substantiate their allegations and thus face a penalty. As I said, this is a very complicated area and there is no easy solution to these sorts of problems. But we have the responsibility to protect those who are vulnerable and at risk of being victims of violence.

I would like to go back briefly to the issue of mediation. Labor supports changes that will promote family dispute resolution outside the courtroom. This bill is part of a package of reforms that includes the establishment of a network of 65 family relationship centres or FRCs in the long run, with 15 FRCs in the initial program. If they are managed well and properly resourced, they will provide an invaluable addition to the family law system by being a shopfront and entry point for advice, referral, counselling and mediation services.
I would like to raise three points on these FRCs. Firstly, to oversee and develop the selection of sites and performance of these centres, the Attorney-General established a committee of eight coalition backbenchers. Six of those eight members, as I understand, hold marginal seats and five of them have received an FRC in their electorate. I cannot help but be critical of this process. There are numerous parliamentary committees with representation from all political parties in this place that could have very well overseen the establishment of FRCs in what I believe would have been a fair manner. This is a little bit of arrogance on behalf of the government and, more importantly, an ignorance of and lack of attention to the committee process in this place, which I am so strongly in favour of and support. The way that was handled might have been an underwriting of the value of those parliamentary committees. In relation to my own electorate, I know that there has been a commitment to have an FRC within the ACT. As yet, where that will be has not been determined to my knowledge. I am hopeful it will be in my electorate. I would like to think that, with a population of 320,000, the ACT might get more than one.

Schedule 1 also changes the nature and status of parenting plans, which are agreements in writing between parents concerning children. Currently, parenting plans are unenforceable. This bill substantially increases the role of parenting plans by requiring, for example, the court to consider the most recent parenting plan when making any parenting order. Labor have proposed several amendments to ensure that parenting plans are in the best interests of the child. For example, we propose to add in a seven-day cooling-off period before any parenting plan can be regarded by the court. This is due to the concern that a parenting plan could be made in private, under duress and without advice or support and still be given new status. The bill also expands the content of parenting plans and expands the obligations of lawyers, counsellors and mediators when advising people on parenting matters to ensure that they provide the best advice possible.

Schedule 2 of the bill empowers the court to impose penalties on parents who disobey parenting orders without a reasonable excuse. The major changes are the use of costs orders, the ability to order compensatory contact, compensation for expenses and giving parenting plans more weight.

Schedule 3 outlines special court procedures for litigation concerning children. The aim is to ensure that children’s matters are handled quickly and are as free of legal technicalities as possible. It hopes to provide less adversarial court processes and more active case management in children’s matters. It builds on the Family Court’s Children’s Cases Program, which is being trialled in the Parramatta registry in NSW. Labor supports this schedule in principle, but is concerned that it is being implemented before the results of the trial in NSW are known. Labor’s amendment proposes a commitment that the results of the NSW trial will be tabled in parliament and that the government will revisit these provisions if the trial finds a need for change.

Schedule 4 aims to make changes to dispute resolution processes. It aims to regulate family relationship practitioners, such as counsellors, and obliges lawyers and other workers in this area to provide certain information to people considering instituting proceedings under the act, such as the option of non-court based services. We are concerned that people who may need court based services may be discouraged to use them. Therefore, Labor is proposing that documents given to people contemplating Family Court proceedings include the following...
information: the right to have the matter resolved by a court; the availability of legal aid; and the benefits of court involvement in cases involving violence and entrenched conflict.

The bill contains many more reforms and there are other changes proposed in Labor’s amendments. I have highlighted merely some of the major changes. Generally, the bill will improve the family law system in this country. The issues are extremely complicated and, in some cases, it is impossible to please all the interested parties. When you consider that the key groups involved in this issue include fathers’ rights groups, women’s groups, lawyers and grandparents—the list is very long—you can see why this area can be so complicated. The most important thing is that we all aim to meet the best interests of the child when families are separating. All parents and family members must put their personal feelings aside—and we must encourage them to do that—and do what is best for their children and in the end for the family unit in whatever shape it make take into the future.

I will support the bill as it stands if necessary, but I very strongly urge members on the other side to seriously and honestly consider Labor’s amendments, which, I believe, if adopted, would improve the outcomes for children following family breakdown. Those amendments are put forward in a very honest way to help improve a very important piece of legislation before this House. I would like to think that we could consider them in a non-contentious way and give them careful thought. At the end of the day, who cares whose bill it is, as long as it offers protections to all participants.

I conclude by repeating a couple of the comments I made at the outset. There are numerous—in fact, too many to list—variations on family breakdown and other family considerations. There are so many human elements to this whole debate. At the end of the day what I want as a member of this House is to make a contribution to this debate which is as beneficial as possible for everybody. I hope that is the outcome we will see.

Mr CADMAN (Mitchell) (11.24 am)—The work done in the Family Law Amendment (Shared Parental Responsibility) Bill 2005, which we are considering today, had its genesis in 2003. It is the result of two House of Representatives committees and numerous submissions to those inquiries in a nationwide endeavour to improve the Family Law Act and the relationships process where marriage has broken down. It is an endeavour, I believe, to help couples contemplating separation to take a second look at their intention, to evaluate what the costs may be—not just to them as parents perhaps but to the total family—and to really consider, if they decide to go ahead with separation, the best interests of the children and how their living arrangements as a couple can best fulfil their children’s needs. The committee inquiries were extensive, one being held on top of the other—one being social and practical and the other legal—and I have been privileged to be a part of both.

It surprises me to hear claims made that this has been a rushed process. This process has not been rushed at all. It has been a process of care and of consultation, with both sides of the parliament demonstrating their capacity to work together. It was only at the death knock, in the last few minutes, of this three-year examination that the shadow Attorney-General decided that, after reading about what was going on, she would lob on the table of the House a few comments of her own, which are quite at odds with members of her own party. The shadow Attorney-General has used this as an opportunity to make her mark, but she should reconsider whether any personal ambitions she may have are worth sacrificing the harmony and unity that we have had to this point. I was quite surprised to see a person with her knowledge, intel-
ligence and experience rise to this occasion in such an inappropriate and unparliamentary way. It is inappropriate and not for the benefit of families throughout Australia—of children, of separating parents and of those who may reconcile after careful reconsideration—for her now to want to divide us on this issue and to move to a re-examination. That is what will come from this now—a re-examination by the Senate of all the work that has been done. The Senate will never accept anything that has been done in the House of Representatives.

Mr Kerr—You agreed to that at the request of the Greens and the Democrats. Labor had nothing to do with it.

Mr CADMAN—That has gone on in the Senate and I really think it is an inappropriate process. The member can rave, but the fact is that it is an inappropriate process. Work has been done on this issue and there should be no changes to the legislation. There should be no second-guessing the House of Representatives.

Mr Kerr—I agree; it is highly inappropriate.

The DEPUTY SPEAKER (Hon. BC Scott)—The member for Denison will desist.

Mr CADMAN—The House of Representatives stands supreme on this issue. I would defy the Senate, both by wit or by wisdom, to find one area that needs change. We have considered this at length over a three-year period. It does not need a second look. It does not need going over again. If there are failures on the part of the House with this issue, the Senate can revisit this act in a couple of years time. I would have thought that the Senate has plenty of committees and activity in which it likes to involve itself, without going to the extent of taking on the Family Law Amendment (Shared Parental Responsibility) Bill 2005. However, I know that the Attorney is very anxious to see this legislation passed. I will lend all strength I can to his arm to make sure that his way prevails and that there are no further amendments.

The fact is that we would not be here today discussing this if the court had listened to the House and the parliament in 1995 and 1996. The focus on children’s wellbeing was well considered by both houses at that time and substantial changes were made to the Family Law Act in 1995. But the court, with the chief justice, chose to go its own way, ignoring the wish of the people that had been expressed through this place. I think that was a very sad and a very irresponsible action of the court.

Am I criticising the court? I am perhaps criticising former members of the court, because I think that they approached the Family Law Act in a blinkered way—a way which is the most legalistic and codified of any family law anywhere on earth. Most countries have a more conciliatory approach, which would like to bring people together to solve their problems and turn back on them the responsibility for solving their family problems, rather than having a court, in a legal environment—cold, clinical, calculating—trying to deal with emotional and subjective issues. That is what Australian family law courts have been doing, and it is not appropriate that they should continue.

The House of Representatives committee unanimously recommended that the Family Court be taken out of this process and that a tribunal with a lower standard of proof and a more informal process, without lawyers, be established so that the needs of children can be carefully considered, much in the way that other tribunals—whether they be social security, immigration or others—are considered a different environment from that of a formal superior court.

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But Australia and the judges have wasted 10 years. Families over that period of time might have been capable of reconciliation. They might have been able to make different arrangements. They might not have been forced into the dreadful 80-20 formula that is so much part of the ethos of the Family Court—where husbands go or do not go to court, having been told that they will see the children for 20 per cent of the time, which is every second weekend and half of the school holidays, and that the formula for payment is 60-40, fifty-fifty or whatever the formula happens to be—instead of dealing with the issue of children first of all and solving their problems. Beyond the separation, both partners remain parents, and their responsibilities can only be given up by the conscious decision of them both. Mostly, they do not want that to occur. Certainly it may be that a proportion of families, males and females, do not want any further association with their children. That is a tragedy. It happens, but we need to try to prevent it to the maximum degree possible.

This is a complete package. The changes to the Family Law Act are extensive. But the fact of the matter is that, despite the attempts of the shadow Attorney to waylay and put off track this most important issue—she has come forward with some modifications that enhance the process—the government has seen fit to reject her bid to reverse the requirement that an apprehension of family violence be reasonable.

One of the sore points of all the inquiries that I have been involved in has been that nobody in the Family Court is capable of understanding whether a threat of violence or violence has actually occurred, because the violence and assault processes are a matter for the courts of the states. So the federal establishment of the Family Court has made it not possible to go beyond the point of federal law. It is now a requirement of this proposed act—and it is a requirement that the government intends to adhere to—that the apprehension of family violence must be seen to be reasonable, in that there is a real chance that violence has occurred, and it must be a provable process. It could be a thought or even an invention—and we heard in many cases that it is possible to concoct a process whereby access is denied for an unreasonable claim of violence.

We had one instance I remember of grandparents, a lovely couple, who did not even go as far as the front gate of their ex-daughter-in-law’s home in an endeavour to see their grandchildren. She was down to the local police station with a claim of apprehended violence, and an AVO was put out. So the grandparents—a retired clergyman, mind you, and his missus—trying to see their grandchildren were claimed to be violent and so were barred from seeing their grandchildren. Those are the sorts of things that the court needs to ascertain for itself. The court admits in evidence that it has not been able to do so. Yet we have the shadow Attorney-General wanting to remove a requirement that they should investigate violence, come to a conclusion and make a decision on the fact of whether or not violence had occurred.

There is also a bid by the shadow Attorney-General to remove the requirement for parties to make a genuine effort to resolve their dispute in mediation. What could be more reasonable than asking them to make a genuine effort? Part of the time something flares up and there is no reasonable effort to get back together. Many a couple have said to me and many an individual has said to me, ‘If only I had known what was in this, I would not be pursuing it. Now I’m in the courts, it has cost me a lot of dough and my lawyer’s asking for more money. How do I get out of this or how do I win the case? How do I force them to pay so that I do not owe
so much money to my lawyers?’ Those are the comments of so many that have come to my office wanting relief from the dreadful process of Family Court.

It reminds me of the Dickens novel on chancery and how people are trapped into a system for year after year after year, trying to resolve a situation, and the court keeps them locked up or the other party keeps them locked in there for an interminable time. There must be a genuine effort to resolve disputes by mediation and that is a critical factor that must remain in the bill.

There is a proposal to reverse the move to equally shared parental responsibility, but nothing could be more sensible than that. Nothing is better designed to resolve the bitterness and hatred in the relationships that adults may have between them than to have—as most courts of the world require—them focus on the needs of the children and not have the court intervene with some formula or some prescription which a judge in a subjective manner needs to apply. The judges do not like it because they have to use a subjective approach rather than a legal approach. There are no laws written which can indicate how you assess people’s attitudes. We do not legislate for attitude. So there must be a genuine effort and there must also be a proposal that equally shared parental responsibility is part of the settlement process.

There is also a bid by the shadow Attorney-General to mandate the provision of information to separating couples encouraging them to go to court. The courts are not the solution and the more we can keep people away from the courts, the better the results will be. But here we have somebody who is legally trained seeking to put people back into court. I think it is a sad thing that the Australian Labor Party wants to do this.

These proposals are a very complete package. They include the provision of family relationship centres, which have some very specific roles to fulfil and a very important role in the whole process of dealing with separation. It is intended that the centres will assist a broad range of people with matters including premarriage education so that people understand what they are getting into and what relationships in marriage may mean. It does also mean that of course children have a much better opportunity to be brought up in a safe environment in a marriage rather than in a relationship. Couples are more likely to have children in a marriage than in a relationship and the children are often safer and more secure. It will provide for couples who have not separated but who are experiencing difficulties an opportunity for information and counselling. It is a very good early intervention process.

The family relationship centres will provide to separated or separating parents information, non-legal advice and dispute resolution services to help them reach agreement and to help them devise the basis of a parenting plan for the way in which they are going to provide for their children in the future. With the settlement of a parenting plan, the process then moves on to a conclusion and hopefully will not need to go to court. The court will require a parenting plan once it is established. Only in exceptional circumstances will the court not require a parenting plan. So a parenting plan is a pre-requisite of getting before the court, and the court can insist on a parenting plan. Grandparents and other extended family will also be encouraged to use centres, because they also carry the stress of seeing children damaged and torn apart as their parents separate.

There will be national standards for the centres. There will be consultation with all the stakeholders necessary, approved organisations and accreditations for dispute resolution practitioners, including rural outreach. The processes of family law, including the removal of chil-
children, have been considered by the Family Law Council. A number of issues are still to be resolved with regard to that, but generally speaking I would say that this legislation is far-sighted. I think some of the changes—such as the responsibility for equal share of decision making in regard to children and the need to consider, first up, the fact of equally shared time and the practicality of that process and then to grant, through a further rigour, requirements for access to the children and an intention to impose some penalties, some discipline, in the process of providing access, with the prospect of the person not providing access having to pay for all court costs—are far-sighted.

It would be my intention that this House consider to finetune the Family Law Act. We have wasted 10 years, forced on us by the Family Court of Australia—and probably by the personal attitudes of the former Chief Justice, not the current Chief Justice. This House will be watching very carefully the process through the current Family Court. I know that, should those on either side of this House detect any intention to subvert the purposes of this House, the laws will be further dealt with and strengthened—as we are doing this time.

My colleague Roger Price, from the electorate of Chifley, is really committed to this process. I saw him struggle when, in government, the Australian Labor Party sought to initiate changes, and I saw his disappointment when they were not brought to fruition. It is not the intention of this parliament, of members on this side or on the opposition side, to see the efforts that we have made on this occasion fall into futility, as they have in the past. It is our intention to monitor the process and to make sure that the changes that we think are beneficial, first of all, for children and then for separating couples and then for a more peaceful and harmonious relationship, if that is at all achievable on separation, are brought to a successful conclusion should they need further attention as time goes by.

Mr ALBANESE (Grayndler) (11.44 am)—I rise to speak in favour of Labor’s amendment to the Family Law Amendment (Shared Parental Responsibility) Bill 2005. This bill is an extremely sensitive and personal one which will impact intimately on the lives of many Australian families. The bill represents a fundamental shift in family law. Labor generally supports many of the changes which encourage parental responsibility after a relationship breakdown. It is appropriate that the bill focus on the best interests of children in these situations, rather than on perceived parental rights.

Efforts to reduce the trauma of separation and divorce for families with children are also welcome. However, there are still some important concerns which give rise to the amendment Labor is proposing. It seems to me that certain aspects of this bill have not been completely thought through and are therefore based on certain assumptions about the behaviour of separating or divorcing couples and their ability to be reasonable in what is a truly extraordinary situation. Yet the implications of this family law bill will make life-changing differences for Australian children. If aspects of the legislation contain gaps, we will potentially create enormous problems and further heartache during what is already an extremely difficult time for families.

Legislation is only as good as its weakest link and, in providing a framework for separating and divorcing parents to work within, we must ensure that we do not trap vulnerable people in situations that are damaging or even dangerous. I would like to firstly draw attention to the considerations of shared parenting responsibility and the requirement to consider shared parenting time. Ideally, children would have equal contact with both parents. That is a gut in-
stinct which is hard to demur from. However, we do not live in an ideal world. Of paramount importance must be consideration of factors that would make it not in the child’s best interests in all cases. While no divorcing parent would want to compromise the best interests of their child, the risk in shared parenting time is of turning the child’s life into a quantitatively divisible entity. Time, financial support and even living arrangements are tangible and divisible. However, the impact of these in a child’s psychological and emotional development cannot be so easily quantified or organised.

I am a father and I love my son. I miss him each and every night I am not at home. The biggest sacrifice that a politician makes is the number of nights we have to spend away from our families. I think that practical reality gives us just a small portion of insight into the difficult emotional trauma which separation causes. But let us consider the disruptive impact of splitting time equally between two parents who are separated or divorced: two houses, two bedrooms, two sets of toys, two places to stay, two neighbourhoods, two routines to establish. We talk about creating shared parenting, but we do not want to create a situation where children’s lives become part of a timetable, making children rotate from one house to another, from one bedroom to another, from one routine to another. The impact that so much change and transience can have on children must be considered, particularly since the emotional and psychological effects of shared parenting arrangements can be less obvious.

It may well be that in some cases shared parenting in two houses works in a way which is consistent with the best interests of the child. If that is the case, then I am all for it—that is the ideal—but only if it is in the interests of the child. Two houses can mean two sets of rules and possibly even two completely different ways of life. In the case of less amicable divorces, a child could spend his time in two houses in which completely different ideas about life, family, behaviour, expectations and habits are nurtured.

Shared parenting responsibility assumes that at least a certain level of collaboration and cooperation will continue post divorce, yet this clearly will not always be the case. What happens when this breaks down in the most extreme of ways and children are made to spend equal amounts of significant time with parents who oppose each other in every way, including the way they raise their children? It is also not unreasonable to imagine that children could suffer as a result of the complex emotional tug of war that occurs between parents in situations such as these.

Concerning the introduction of compulsory mediation, in theory I believe this change is a positive one. I do not think anyone would oppose moves that aim to make separation and divorce as smooth as possible and with as little litigation and hostility as possible. That is the ideal. But we must not fool ourselves about the reality. The trauma of a separation or divorce can make even the most reasonable people act unreasonably and even the most amicable of divorces can be excruciatingly difficult.

Certainly for some the compulsory mediation process will be helpful; for others, however, it will be just the opposite—yet another occasion for hostility, a further reinforcement and refuelling of emotions that are already running high. I am also concerned that compulsory mediation will force some parents into negotiations with people whom they have come to fear or feel intimidated by.

Central to the family law system reforms is the establishment of family relationship centres, a one-stop shop that will provide information, advice and mediation services. Such cen-
tres clearly have been conceived with the best of intentions; however, they require proper implementation, funding, tendering processes and training programs for the staff who will work there. Indeed, the success of family relationship centres will rely on the provision of high-quality service which is properly resourced.

Unfortunately, the bill in its current form does not discuss many of these aspects in detail. Worryingly, key issues such as the accreditation of family relationship centres, quality assurance, accountability and protocols for screening for violence are not dealt with in detail in this bill. We are told that the detail is in the regulations, but they are not yet available. It appears that, unlike the current situation, FRCs will not need to be members of industry representative bodies. This eliminates a level of quality assurance and leaves room for organisations with political agendas to be the first point of contact for people who are already in a fragile state of mind. Who will monitor these bodies and determine the appropriateness of their outcomes? At the very least, all FRCs should be required to have all mediators trained and accredited in domestic violence competencies. Here we have the cart before the horse. We are debating legislative changes without any detail. We have to rely on the government to introduce regulations as we go. This is simply not good enough. People’s lives could be put at risk if correct processes are not put in place now.

Another key concern about the mediation process, and one that is particularly relevant to my electorate of Grayndler, is how the process will cater for people from different cultural, linguistic and religious backgrounds. It is all very well to introduce compulsory mediation, but without appropriate language and cultural provisions and training such services would be effectively inaccessible to many people in my electorate. Many of my constituents approach me with frustrations about accessing services such as Centrelink and legal centres. Imagine the potential for miscommunication and misunderstandings relating to language and culture that could arise in the context of relationship breakdowns and family separations. Those of us whose first language is English immediately take for granted our ability to communicate and navigate our way around our relationships, our daily lives and the social structures we move in. However, anyone who has been in my electorate would appreciate that things are not so easy for many people for whom English is not their first or even their second language or for people who come from different cultures.

It is also extremely important that adequate provisions are in place for Indigenous communities, where the rate of relationship breakdown and domestic violence is alarmingly high and where family relationship centres are most needed. A publication put out by the Queensland government entitled *Aboriginal English in the courts* refers specifically to the difficulties Aboriginal people experience due to the failures of the legal system to recognise the differences between Aboriginal English and Australian standard English. Simple things that we take for granted, such as the way questions are phrased and important nonverbal features of languages such as gestures, eye contact and silence, can be easily misinterpreted by standard English speakers who are unaware of the differences. This can lead to crucial communication breakdowns. I am concerned that such difficulties, if not identified and addressed in training the staff of family relationship centres, could be problematic for Indigenous people as well as for people from other cultures.

What provisions are in place to ensure that people of other language backgrounds can have access to interpreters or to counsellors who speak their language? What appropriate training
will there be for staff to help them understand cultural differences which may be highly sensitive and salient in the context of relationships, divorce and even identifying domestic violence? Where will these important considerations be addressed? And what of the other unanswered questions, such as the issue of quality assurance for these centres? I understand there will be no complaints mechanism in place. What processes will ensure the accountability of these centres or will we see more management disasters similar to those that the Attorney-General presided over during his time in the immigration portfolio? If the best interests of the child are really at heart, then it is unacceptable that these questions remain unanswered before the establishment of mediation and family relationship centres.

The proposed changes to the nature and status of parenting plans are also concerning. Substantially increasing the role of these plans without amendments in place, such as a seven-day cooling off period and provisions to invalidate parenting plans if made under threat, duress, coercion or manipulation, are vitally important to protect all involved in the plans. Once again, no-one would object to parenting plans. They are of course a good idea. But we have to get them right, and we have to do that based upon reality rather than a utopian view which pretends that these situations are not by their very nature emotional, difficult and very traumatic. These safeguards need to be introduced if we are serious about acting in the best interests of children. Concerning also is the lack of legislated financial support for this mediation. Labor proposes that three hours of free mediation must be written into the legislation.

Another shortcoming of the bill in its current form relates to safety in the case of violent relationships and screening for domestic violence. Here Labor has proposed amendments that would make safety a priority, including a clear exemption from face-to-face mediation for those in violent relationships and proper screening and protection from coercion and intimidation when making parenting plans. The screening and identification of domestic violence is imperative. Statistics show that most women do not disclose domestic violence. For this reason it is vitally important that strategies be developed and implemented to overcome the issue of nondisclosure of violence prior to and during mediation.

When I have had representations from women who work with the Indigenous community in my electorate, they are particularly conscious that some communities are less likely to report domestic violence than others. The Indigenous community is one in which sadly that is the case. Community groups in my electorate have approached me expressing their grave concerns about the lack of thought that has gone into this aspect of the proposed legislation. Marrickville Legal Centre witness daily the web of difficulties encountered by women in violent relationships. Women present at their office scared, intimidated and deflated but still do not feel they can report domestic violence. They are concerned that some women could see mediation as a further barrier to reporting violence. Indeed, it is difficult to see how forced mediation would be appropriate in cases like these without any practical screening mechanisms in place. There is also a concern that mediation could be seen inappropriately by women as a platform on which to address domestic violence. This is clearly not the purpose of mediation as specified in this bill.

Greater attention to domestic violence and the dynamics of abuse is clearly required. Twenty-three per cent of women who have been married or in a de facto relationship have experienced violence—that is, one in four women have experienced domestic violence. That is a shameful figure. Every child in these relationships, too, is a victim of domestic violence.
either directly or as a witness to that violence. Despite this, the government has insisted on changing the definition of ‘family violence’. This bill amends the definition of family violence to require the victim:

... reasonably to fear for, or reasonably to be apprehensive about, his or her personal wellbeing or safety.

Clearly, what is reasonable for one person is not necessarily reasonable for another. A woman who has been caught in a violent relationship may find herself having to prove that an incident is threatening and fearful to her, yet she may find it difficult to even talk about the nature of these incidents or of her relationship. Again, cultural factors must be taken in consideration. Introducing a ‘reasonable’ test sends the wrong message to the community about the use and experience of violence. This bill has the potential to move us backwards, decriminalising domestic violence by failing to identify it and address it appropriately in screening processes prior to mediation. A sad consequence will be that in many instances domestic violence will not be identified. This will in turn lead to the victim’s experience of violence not being properly factored into decision making.

Labor proposes that the current definition of ‘family violence’ should be adopted. The so-called objective test the government has introduced makes it even more difficult for women alleging domestic violence to come forward. A so-called objective test will not take into consideration the personal circumstances of the victim. Couple this with the false allegations provision, whereby the courts are required to order costs against parties who knowingly make false allegations or statements, and we have a real problem. Family violence can be notoriously difficult to prove. This provision is a further disincentive for women not to report domestic violence for fear they will face a penalty if they are unable to substantiate their allegations. As suggested in Labor’s amendment, an exemption from face-to-face mediation in violent relationships and proper screening for violent cases must be adopted.

It is widely known that there is already a problem of false denial of violence by abused women. The fact is that the underreporting of domestic violence is a much bigger problem than the false allegations. I do not suggest for one second that false allegations have not been made, and that is a tragedy for the person the allegations are made against. But it is the role of government to look at the overall impact of its legislation. The truth is that you would think, from the way that the government has framed this legislation, that the biggest problem is false allegations rather than underreporting. It is just not the case.

As Labor suggest in our amendments, this bill must maintain the current definition of ‘family violence’ and also include circumstances in which a child witnesses or is exposed to violence. We also believe that the provisions concerning cost penalties for false allegations of violence should be deleted. In the end, the amendment Labor is proposing go to the heart of what this bill should be about: protecting and ensuring the best interests of the child, safeguarding all parties involved and providing comprehensive, accountable services which are accessible to all.

No-one wants families to break down. No-one wants separation and divorce to be more difficult than it already is. Nobody wants to see any child suffer. And nobody wants people to have to go into unnecessary litigation if other alternatives are valid. But we must not simply legislate for the best-case scenario, hoping that by setting a good example the most dire cases will simply follow suit or somehow fall into place. It is arrogant, short-sighted and simply
wrong to fail to provide appropriate support for people of different cultural and linguistic backgrounds. It is not good enough to do anything other than all in our power to stop domestic violence.

I commend Labor’s amendment to the bill. I commend those members of parliament who have worked very hard on these issues, a very challenging area of government legislation. I think people on both sides of the House have attempted to address this in good faith. But there are weaknesses in this legislation. We need to get it right from the beginning because the consequences of getting it wrong will have a dramatic impact on the parties who are separating or divorcing—and, most importantly, on children in these situations. It is a tragedy that if you look at difficulties people have later in life you can often see that they experienced difficulties while they were children. That is why we need to get it right. I support Labor’s amendment to the bill and commend the bill to the House.

Dr WASHER (Moore) (12.04 pm)—I assure the members for Grayndler that I share his concerns. We would not want to miss those things. I am lucky to have a family relationship centre nominated for my electorate because of the demographics. I can assure you that high-calibre people will be recruited to these centres, to overcome as much as possible the difficulties you expressed. Certainly I share those concerns, so I empathise.

The amendments proposed in Family Law Amendment (Shared Parental Responsibility) Bill 2005 are perhaps the most significant changes to be made to family law in 30 years. They propose a complete cultural shift in how family breakdowns are managed by shifting the focus away from litigation to focusing on what is most important: the children. This bill reflects the government’s determination to ensure the right of children to grow up in a safe, supportive environment, involving both parents if possible. It also places an emphasis on the protection of children from family violence.

The bill introduces changes such as a new presumption of equal shared parental responsibility, with both parents playing a role in the major long-term decisions involving their children; makes the right of the child to know their parents and be protected from harm primary factors in decisions; requires parents to attend family dispute resolution and make a genuine effort to resolve the dispute before taking it to court; gives courts a greater range of powers to deal with people who breach parenting orders, with penalties such as make up time and compensation; requires the courts to take into account parents who fail their responsibilities, such as not paying child support or not turning up for contact handover; amends the existing definition of family violence to make clear that a fear or apprehension of violence must be reasonable; provides a less adversarial approach in all child related proceedings; and better recognises the interests of the child in spending time with grandparents and other relatives.

Crucially, the bill also addresses the issue of time. Time is our most precious resource—parents fight about it, courts divvy it up and children long for it. It is an essential element in developing a warm and emotional connection with our children. Time is subjective of course; however, with the laws we need to quantify it by stating that we require the courts to consider whether a child can practically spend equal time—fifty-fifty—with both parents. That is essential. If this is not practical then the courts must consider substantial and significant time, including day-to-day routines. If children can maintain ongoing and frequent contact with both parents then there is a much greater opportunity for different experiences of time.
What do I mean by different experiences of time? Overnight stays allow for the mundane, everyday experiences such as putting the children to bed, reading the bedtime story, getting ready for the day together. Any parent can tell you that these times can provide the moments that really count in connecting with their child. The one-on-one time together helping with homework, chatting about their day while driving in the car—these times can make a child feel that they really matter to you. The outdoor time spent together, such as fishing or gardening, gives parents the chance to mentor and remain in touch with their children. The ‘being in the moment’ time, as described by Bruce Smyth in his article entitled ‘Time to rethink time’ is the most critical. It is the unstructured, spontaneous and intimate time that can occur, usually during these most mundane times, when a child tells a parent what is most important to them and what is going on in their lives, which matters most. This fluid, meaningful time cannot be scheduled; it needs to be cultivated. Parenting arrangements that involve thin slices of parent-child time do not allow the experience of ‘being in the moment’ time as they simply do not provide enough natural time spent together.

This bill aims to enable both parents to experience this natural time with their children. It is not only the Family Law Act that is being changed but the whole family law system. This bill forms one part of a package designed to support these overall changes in the system. This $397.2 million package will promote the involvement of both parents in their children’s lives, reduce the impact of conflict on children and reduce the emotional and financial costs to families and the community of relationship breakdown.

The package includes the establishment of 65 family relationship centres—one of the first, as I said, will be in my electorate; more contact orders programs; more children contact services; expanded dispute resolution services; family conferencing involving grandparents; community education; and additional funding for existing and new family services.

This bill is the result of many years of work by a large number of people. It implements a significant number of the recommendations of the Every picture tells a story report prepared by the House of Representatives Standing Committee on Family and Community Affairs. The committee travelled the nation conducting public hearings and read over 1,700 written submissions to produce a 240-page report. Overwhelmingly members of the committee heard a call for far reaching reform of the current system, especially from fathers.

Currently there are six broad patterns of father-child contact after family breakdown. Thirty-four per cent of children have standard contact; that is, children see their non-residential parent each or every other weekend. Twenty-six per cent of children have little contact—less than once a year—or no contact with their non-residential parent. Sixteen per cent of children have daytime contact only. Ten per cent of children see their non-residential parent only during school holidays. Seven per cent have occasional contact by seeing their non-residential parent every three to six months. And six per cent of kids have equal or near equal care by being with either parent for at least 30 per cent of nights during the year.

Fathers often feel that what time they have to spend with their children is stilted, shallow, artificial and brief. Residential mothers and non-residential fathers differed markedly in their level of satisfaction with the amount of father-child contact. Data from the Household, Income and Labour Dynamics in Australia Survey found that 55 per cent of residential mothers believe that the amount of contact time is about right and that 57 per cent of non-residential
fathers in the same sample felt that it was nowhere near enough. These samples of men and women were independent of one another.

As mentioned previously, what seems to be important is not just time but the subjective experience of time, the type of contact a father has with his child. Non-resident fathers are most satisfied as the type of contact becomes qualitatively richer, such as with contact involving overnight stays. There are critical patches in time that allow children and parents to connect in deeper and more meaningful ways. I believe that this bill will help more separated parents experience this.

Ms HOARE (Charlton) (12.12 pm)—One of the more distressing issues which confront us as parliamentarians is that involving family law and family breakdown. As with most issues, we mainly see the more extreme cases. It is a difficult reality to accept that two people who had fallen in love and had made a decision to spend the rest of their lives together and have children could end up sometimes in a truly acrimonious breakdown in that relationship. It must be noted, though, as we only see the more extreme cases of family breakdown, that 94 per cent of family law disputes filed in the Family Court are resolved without adjudication by a judge and the parties to the dispute come to an agreement out of court. It is the issues raised in the cases which are highlighted in the courts which we as legislators have to address.

The Family Law Amendment (Shared Parental Responsibility) Bill 2005 is a major reform of the Family Law Act, which has been the subject of reviews and overhauls since it was introduced by the Whitlam Labor government in 1975. The Family Law Act mainly deals with the processes and principles used to resolve disputes between separating couples over children and property. Under the act, disputes can be resolved by the Family Court, the Federal Magistrates Court or mediation.

The proposals which the government is wanting us to support here today have evolved from an inquiry conducted by the House of Representatives Standing Committee on Family and Community Affairs. The then Attorney-General and Minister for Children and Youth Affairs tasked the committee as follows:

... inquire into, report on and make recommendations for action:

(a) given that the best interests of the child are the paramount consideration:

(i) what other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted; and

(ii) in what circumstances a court should order that children of separated parents have contact with other persons, including their grandparents ...

The result of this inquiry was the 29 recommendations in the report called Every picture tells a story. These recommendations included the rejection of a rebuttable presumption of fifty-fifty shared parenting time; the adoption of a rebuttable presumption of shared parenting responsibility; the adoption of a rebuttable presumption against shared parenting responsibility in cases involving violence; compulsory pre-litigation mediation; the establishment of a single national one-stop shop for family relationship services, including mediation services; increased resources for family services, especially the contact orders program; and the establishment of a families tribunal which would have the power to resolve disputes about parenting arrangements and about property matters where the parties agree to have disputes decided
there. The tribunal would be non-adversarial with simple procedures. Its members would be professionals from the family relationships area—for example, counsellors and social workers—and lawyers would be permitted to appear only at the discretion of the tribunal. In parenting cases, the Family Court would continue to deal only with cases involving entrenched conflict, violence, abuse or drug abuse, enforcement of tribunal orders and the review of decisions of the tribunal on limited grounds.

The recommendations also included the establishment of an investigative arm, attached to the tribunal, to investigate allegations of abuse and violence; the creation of a single family law court, comprising both judges and magistrates; a requirement that legal practitioners in the area have an undergraduate degree in social sciences or dispute resolution methods; mandatory minimum financial penalties for first and second breaches of orders and compulsory consideration of a parenting order in favour of the other parent upon a third breach; the inclusion of specific recognition of grandparents and the right of children to have contact with their grandparents; and changes to the child support formula.

This bill does not seek to address all of the recommendations but does address a few. The bill introduces a rebuttable presumption of shared responsibility—not time, but responsibility—of both parents for their children. It also requires the court to consider equal, significant and substantial shared time with both parents. The difficulty with this is that, while there are many and varied family circumstances, the courts need to also consider what is reasonably practical, such as possible geographical distances between the parents. The best interests of the child must always be paramount.

This bill also introduces compulsory mediation before litigation, with limited exceptions such as where there has been violence in a relationship. Labor believes the protection of victims of violence does not go far enough, and the shadow Attorney-General has addressed those concerns in Labor’s amendment.

The bill introduces less adversarial court processes for cases involving children whereby the judge can direct procedures and more actively encourage the child’s paramount importance. It also provides the legislative basis for a major increase in family relationship services, with the establishment of 65 family relationship centres. Labor welcomed this initiative in the last budget, but our amendment goes to ensuring that the tender process for this is open, transparent and accountable. These centres can easily be corrupted if government ministers use their ideological bents to influence which organisations are awarded the tenders. We witnessed a forerunner to this just last week when the Minister for Health and Ageing, after being defeated in the RU486 debate, was rewarded with $60 million to allocate to church groups to provide abortion counselling.

Although there are serious concerns about how some aspects of the bill will operate, the reform package has a lot of positives—in particular, moving away from adversarial litigation over children and the $400 million directed towards support services. We will not obstruct these important initiatives, but we have moved our amendment to strengthen this legislation, and we urge the government to take up its suggestions. It is also an absolute imperative that these laws continue to be monitored and scrutinised.

There have been organisations and individuals who have expressed anger and frustration that Labor’s position may have been portrayed as an extreme pro-mother position. It is not, and I would like to clarify that. Let me point out that Labor does not intend in any way to un-
dermine the main provisions of the legislation. The presumption of shared parental responsibility, the emphasis on mediation and the new procedures for children’s cases will all receive Labor’s support. The opposition simply believes that the issue of family violence, which occurs in a small minority of cases, must be taken seriously.

Labor has moved its amendment to the legislation. However, it is expected, given the government’s numbers in the House and the Senate, that the amendment will fail. When this occurs, Labor will support the government’s legislation, which means that the government’s policy relating to shared parental responsibility will come into effect.

Labor’s amendment is not based on an anti-men or a pro-women stance. It is only concerned with reducing the risks children may face if exposed to a parent who is violent. There is no distinction as to whether that violent parent is a man or a woman. At the end of the day, the amendment is about reducing a child’s exposure to violence by a violent parent. There is no suggestion that men are presumed to be violent or that they are inferior to women as parents. Most men and women are great parents, despite the difficulties that may exist between some mothers and fathers. As parents, our main responsibility is and must be the care of and love for our children.

The rationale behind Labor’s position is based on the fact that some marriages end because of violence or behaviour that creates an inappropriate environment for the upbringing of children. In these situations, it would be wrong for the court to start its consideration of the custody arrangements from the position where either parent, including one who is placing their child at risk, has an equal right to have full or shared custody rights, when in doing so the child will be exposed to possible danger.

The one responsibility we have to our children is to protect them from danger. No child asks to be born, and there is nothing that distresses me more than seeing abused and frightened children. We must remember that these situations are, thankfully, rare. There is not a situation where men are presumed to be violent. When frivolous or vexatious claims of violence are made against a parent by the other party in a custody dispute, it is for the court to determine the veracity of such a claim. Whilst the court does get it wrong sometimes, it does not start from a position which presumes that the mother is the better parent. The government must do more to ensure that the court is in a better position to get these decisions right.

Some have said that shared parental responsibility is ‘a meaningless, obscure and misleading term that will only create further confusion for separating parents on the whole’ and that it ‘also has done nothing to influence real shared responsibility in regard to financial responsibility’. This is a very important point. The government’s changes will do nothing to change the arrangements governing the financial responsibilities of parents. These measures are only concerned with the amount of time children spend with their parents.

The government only yesterday finally announced its changes to the child support system, as put forward in the Parkinson report, which will primarily benefit non-custodial fathers with respect to their child support liabilities. Labor has been calling on the government to respond to the recommendations of this report.

I do appreciate the hurt and frustration that non-custodial fathers feel when they believe that they are denied the opportunity to extend their love and affection to their children and to share in that of their children without requiring the permission of the mother. It will always be
difficult to determine which parent has majority care, and in most cases neither parent is happy with the outcome.

On the other hand, many organisations and individuals have contacted me regarding the minimal amount of protection for domestic violence victims in this legislation—indeed, it may put some further at risk. I appreciate their concerns and note the views that the proposed measures will impact on the lives of children in ways that no adult would tolerate on an ongoing basis and which may increase the risk of further violence and abuse to women and children escaping from violent relationships. I am alarmed at figures recently drawn to my attention concerning the continuing unacceptable violence to which women and their children are exposed. I am horrified that some 34 per cent of women who have been partnered have been subject to domestic violence and that 99 women and children died in 2002-03 as a result of domestic violence. We are particularly concerned that the proposed legislation does not provide for sufficient protection for the safety of children and parents from violence and abuse.

Another issue which arises in this discussion is the access to justice and legal aid. Access to justice should be provided to all who need it. Unfortunately, as is the way of things under this government, access to justice would appear to be available only to those capable of spending a large amount of money on lawyers. The Howard government slashed legal aid funding and introduced changes to the funding formula back in 1997. Despite being warned of the major impact this would have on ordinary Australians receiving access to legal assistance, the government has repeatedly refused to return to a cooperative funding model with the states and territories.

A recent Senate committee inquiry recommended that the government increase as a matter of urgency the level of funding available for family law matters. Grave injustices have resulted because of the inadequate level of legal aid funding available. In 2002-03 the government spent over $146 million on its own legal advice. Obtaining information about this expenditure is very difficult—the government is reluctant to advertise this extraordinary cost to the taxpayer. Interestingly, the amount of legal aid made available to the entire Australian population for the same year was $120 million.

Hopefully the move away from adversarial litigation, which is enhanced in this legislation, will eliminate some of these challenges, but more will need to be done. It cannot be denied that these very personal issues can inspire hatred and other strong emotions between the parties. What may seem commonsense to one party may appear completely irrational to the other. There is plenty to be done to continue to improve the operation of the family law system to assist families facing separation. However, as the circumstances of families vary widely, it will not necessarily be in the best interests of children to change the way in which both parties are able to make or defend claims. Fixing the family law system will never be easy. It will never be possible to please all the people who get caught up in it. But improvements are possible and, with the recommendations of the parliamentary committee, it is clear there are areas where reform can take place.

Mr TICEHURST (Dobell) (12.26 pm)—I raised this issue in our party room back in September 2002 after coming across two cases where men had committed suicide on Father’s Day because of the unfairness they faced in the system that existed. My attention was drawn to the plight of other fathers, mothers and grandparents who were also suffering needlessly from a ruthless family law system. I came across a Mr Tony Miller, who had formed an or-
ganisation called dids—Dads in Distress. Tony told me that 2,500 men a year were committing suicide because they could not get access to their children. I formed an informal backbench committee with some colleagues to pressure the Prime Minister and cabinet for a formal government committee to address the need for family law reform and to overhaul the whole child support system. Four years on, after lots of lobbying, local forums and hundreds of submissions from local residents, the federal government is undertaking the most significant changes to the family law system in 30 years.

The Family Law Amendment (Shared Parental Responsibility) Bill 2005 is part of the government’s bold new reform agenda in family law. The legislation complements the package of messages announced in the 2005 budget, amounting to $397 million over four years. These reforms are great news for families in my electorate of Dobell and indeed across Australia. Once fully implemented, they will bring about some equity in the system, possibly making it one of the fairest systems in the world and improving the quality of life for thousands of broken Australian families. Society has a responsibility to support mothers and fathers, irrespective of their marital status, in fulfilling their roles as effective parents. This is the premise of the Australian government’s family law reforms after all. The strength of our families will determine our children’s futures and the future of our nation.

This bill introduces a new presumption of equal shared parental responsibility. It is not about halving time, although access is a major issue; it is about sharing responsibility. This involves a requirement that parents consult one another before making major long-term decisions on issues such as where the child goes to school, present and future education, major health issues, religious and cultural upbringing, change of surname and usual place of residence. This should be in the form of a parenting plan. Joint custody is a means to an end and not an end in itself. The end is the opportunity for children to know and to have a relationship with both of their parents. This should only happen where the relationship enriches the child. It certainly should not happen when it harms the child. This bill requires that the court consider whether the child spending equal time with both parents is reasonably practical and in the best interests of the child. If it is not appropriate, the court must consider substantial and significant time, including day-to-day routine, and not just weekends or holidays.

While there will always be exceptions, many parents want better access arrangements. They want to meet their responsibilities and they want to do the right thing by their kids. I am hopeful that this legislation will facilitate that. The proposed new system is deliberately less legalistic and more child focused. It reduces the role of the courts by requiring parents to attend family dispute resolution and make a genuine effort to resolve a dispute before taking a parenting matter to court. A less adversarial approach relies on active management of matters by judicial officers and ensures that proceedings are managed in a way that considers the impacts of the proceedings themselves—not just the outcome of the proceedings—on the child. This will promote the best interests of the child by encouraging parents to focus on their parenting responsibilities.

At the same time the bill strengthens existing enforcement provisions by giving the courts a wider range of powers, including ‘make-up’ time and compensation to deal with people who breach parenting orders and who fail to fulfil their major responsibilities—for example, failing to pay child support.
It is important to note that the proposed reforms in this bill will not create further barriers to women and children escaping from domestic violence and child abuse or further discourage the disclosure of violence and abuse. There is a new object to make it clear that children need to be protected not only from direct harm but also where that harm comes from being exposed to family violence against others. The requirement to attend family dispute resolution and the presumption of equal shared parenting responsibility will not apply if there is a risk of child abuse or family violence. In cases where the presumption will not apply, the court will not be obliged to consider the matter of the child spending substantial time with both parents.

The existing definition of family violence is amended to include a requirement of reasonableness, but only in relation to a fear or apprehension of violence. The change does not mean that there is a requirement for reasonableness for violence that has actually occurred or that any violence is acceptable.

I think all members acknowledge the role of grandparents and families affected by separation. I have held several family law forums over the years and met with many grandparents heartbroken because of the current system. Even great-grandparents are affected by this. Recently the member for Berowra cited in the House research from the Institute of Family Studies which confirms the importance of grandparents in caring for children. I have 12 grandchildren myself, so I fully understand where he was coming from.

This role can be even more crucial in cases of separation. Grandparents can exercise a moderating and calming influence at times of great stress and uncertainty for families. This bill will see the role of grandparents better taken into consideration when family breakdown occurs. Parents will be encouraged to consider time spent with grandparents when developing a parenting plan and to include grandparents in mediation and family counselling activities. If the matter proceeds to court, the court will need to specifically consider the importance for the child of the relationship with grandparents.

The government will also be providing funding to legal aid commissions to enable them to provide an expanded dispute resolution process for grandparents seeking contact with their grandchildren. This government recognises the valuable contribution of grandparents to children’s lives. We are determined to assist them in making that contribution.

The Australian government’s bold family law reforms include $189 million to establish 65 family relationship centres across Australia, including one to service my area on the Central Coast. The centres will help families by providing help and advice on relationships. They will be the first port of call when families need to make their relationships stronger or when relationships end. The centres will be a visible entry point for the family law system which will provide some mediation services and refer families to appropriate services. They are not just for separating couples with children; they will be able to help couples without children, mothers, fathers, grandparents and children to get help, advice and support in dealing with family relationship issues. For example, if a couple are about to get married, the centres can provide information about premarriage education; if a relationship is having difficulty, the centre can help get information or assistance to help improve the relationship.

These initiatives represent a generational change in family law and aim to bring about a cultural shift in how family separation is managed—away from litigation and towards cooperation in parenting. The bill reflects the government’s determination to ensure the right of
children to grow up in a safe environment with the love and support of both their parents, and places an emphasis on the protection of children without family violence.

The inquiry was not just about a better deal for fathers or mothers. It was about important social legislation affecting some of the most important and vulnerable people in our community—that is, our children. Children have a right to know and to be cared for by both their parents, regardless of whether their parents are married, separated, have never married or have ever lived together. Children have a right of contact on a regular basis with both their parents and grandparents. They can have a stabilising effect in family break-ups. There are no simple solutions, no quick fixes. Each family is different and each child is different. It is not about maternal or paternal preferences. It is about the best interests of the child, and the issue must be approached on an individual basis.

The government hopes that these changes, including the new centres, will change the way people think about family relationships. Most importantly, the government hopes that through these changes more children will have a loving and healthy home environment, whether or not their mum and dad are together, to help them achieve their full potential.

Mr MURPHY (Lowe) (12.36 pm)—I rise this afternoon to speak on this most important bill, the Family Law Amendment (Shared Parental Responsibility) Bill 2005. My electorate office has been inundated with emails and other letters from parents suffering from the effects of divorce and with the dilemma of the current legal regime founded in the Family Court of Australia and the Child Support Agency. There is, in my view, true despair felt by those parents who are bitterly unhappy about the existing so-called ‘family’ and ‘child support’ laws and the way in which these laws are administered.

I could easily spend my 20 minutes reading from texts of some of the heart-wrenching letters that I have received from my constituents. During the debate on the Legal and Constitutional Affairs Standing Committee report on 14 September 2005, I read a letter to the Main Committee. This letter put the proposition succinctly that ‘equal shared parental responsibility’ does not mean ‘equal time’. Further, the submission stated:

It seems absolutely unfair to say to people that they have the burden of equal responsibility but not share in equal rights.

I can only agree with the views of my constituents who, over the last two weeks in particular, have come to me in the hope that I will speak against those advocates who seek to deny the access of parents to their children—particularly fathers, who statistically are hardest done by in family law proceedings. This is true in property orders as well as in the immediate issue of children’s custody.

In statistical terms, the mother of a child has always been favoured by the Family Court of Australia. I refer to the Family Court of Australia’s residence and contact orders under the category ‘Any application for children by outcome’ for the period 1994-95 to 2000-01. In percentage terms, the Family Court’s statistics for the period 2000-01 show that over 70 per cent of all residence order outcomes favour the mother. Just under 20 per cent of residence orders favour the father. In just 2.5 per cent of cases do mothers and fathers gain joint residence, with a further 4.2 per cent obtaining split residence.

I will not dwell upon the closely related issue of property orders, except to say that the percentages are frighteningly similar. The woman and mother can expect about 70 per cent of the
matrimonial assets—that is, what is left after the lawyers get their cut—with the fathers getting roughly 25 to 30 per cent. In light of these facts and statistics, I believe the bias exhibited by the Family Court of Australia in its judgments is both perceived and real. Natural fathers are being ripped from their children. Fathers are effectively being rendered either financially destitute or bankrupt. Fathers from divorced relationships are driven to the worst excesses of despair and destitution, thanks to the persistent and deliberate policies latent within the Family Court of Australia and the Family Court of Western Australia.

I am indebted to a constituent, not of my electorate, who forwarded me a copy of the Daily Telegraph poll of 26 March 2004, which asked the question: which federal issue do you think needs the most attention in 2004? Mr Deputy Speaker, what do you think the answer was? Was it national security? Was it unemployment or the economy? Astonishingly, overwhelmingly the winner, at 60 per cent of those polled, was child custody. In my view, the government has not only failed miserably in this policy area but, with this bill, will ensure only the continued misery of parents, particularly fathers of children who are being systematically discriminated against by the Family Court of Australia and the Child Support Agency. Fathers are being made non-custodial parents while simultaneously having their assets ripped from their hands, and they are left legally powerless and penniless.

This shared parental responsibility bill is supposed to deal with the obvious biases against parents, particularly fathers, who are being dealt the most savage of blows by the legal system. I go so far as to say that, if left unchecked, this prevailing legal system will, with its apparent political agenda, destroy families. That appears to be the only real agenda of the policy makers—to destroy families and the institution of marriage. There is no policy rationale, in my view, that supports the view that the so-called ‘Family Court of Australia’ achieves anything other than the destruction of the family unit and the separation of children from their parents—most particularly, children from their fathers.

Clause 60B of the bill describes the objects of the part dealing with the principles of shared parental responsibility. Clause 60CA, under subdivision BA, prescribes, predictably, that ‘the best interests of the child’ shall be ‘paramount consideration’, reflecting Australia’s obligations as a signatory to the United Nations Declaration on the Rights of the Child. However, as is so commonly done with United Nations instruments, the signatory nation interprets its obligations in light of the prevailing morality of that culture. In Australia, this government perseveres with its culture of abnegation of its responsibility of subsidiarity. Simply, this government views itself as being above any political responsibilities to the people. The government needs to understand that it must serve the people and not expect the people to serve the government. We see that in clause 60CC the Family Court is directed statutorily as to how it is to determine what is in ‘the best interests of the child’. This provision contains—and forgive the pun, as none is intended—‘motherhood’ statements going to the primary and additional considerations of what is in the best interests of the child.

What is of critical note here is that the state—that is, the government—usurps for itself the statutory role of the parent for the purposes of determining what is in the best interests of the child. For example, provisions within the bill such as clause 68LA(5)(b) require the independent lawyer for the child to inform the court of the child’s views. Equally, the role of the children’s psychologists in speaking as if for the child creates a legal environment where the
‘best interests of the child’ is nothing more than a smokescreen for what is, in reality, the state’s determination based on its own laws of what it says is in the best interests of the child.

In reality, the ‘best interests of the child’ is a misnomer. What this really means is the culture of the Family Court of Australia is the state’s usurping of the natural rights of the parents in their procreative right to equal access to the child. It is the state that usurps the natural rights of the parents in having equal access to the child. It would be a scholastic task to review each of the orders of the Family Court of Australia. In 2000 to 2001 alone, the Family Court of Australia notes that there were a total 13,194 applications for residency orders.

Another favourite mantra is that ‘each case is determined on its individual merits’. One would be naive in the extreme to believe that each of these 13,194 applications for residency orders was determined on its merits to a point where there is a uniform consistency of some 70 per cent of all residency applications going in favour of the mother. One would be even more naïve to believe that, given the residency orders have continued consistently to favour the mother each and every year from 1994 to the present time. Every year the figures vary from as high as nearly 74 per cent in favour of the mother in 1994-95 to the most current statistics available of just under 70 per cent for the year ended 2001.

I regret that I do not have more up-to-date figures, but what is telling is that the figures on residency orders remain statistically high in favour of the mother; there is no argument about that. The father is by far the loser. This wide disparity of residency orders cannot simply be due to, as we are led to believe, the incidence of violence by the father or acts of sexual or other impropriety. Even factoring in all those incidents, the statistics do not answer the question: why is there such a bias in favour of mothers for residency orders?

To answer this question, we need to look at the fundamental policy intent of this bill and the general provisions of the Family Law Act. I stated earlier that what this government would seek to make into legislation is far from being in the best interests of the child. In reality, the law, as put before this House today, is a smokescreen. In reality, this bill seeks to give shared parental responsibilities but not equal access to the children. Moreover, and critically, this bill seeks to retain the prevailing system embedded in those provisions I referred to earlier, where the state continues to usurp the natural rights of the parent.

It is the state that defines what the rights of the child are. This statutory definition does not accord with the natural law, as the law seeks to deny the child the right of equal access to their parents. I quote from Professor Don Boland of the Centre for Thomistic Studies in his 2000 text titled For the sake of children, in which he states:
The right of the child to have life from the love of its parents has been replaced by the right of the parents to have the child, if they choose to.

This statement is made in the procreative context. The Family Court’s jurisdiction, as stated in this bill and in the Family Law Act, is nothing more than a projection of this government, the state, usurping for itself the very power to decide the fate of the child at the expense of the parents.

Even more disturbingly, and again I cite Boland, what is lost in this government’s equation is any recognition of the natural procreative rights of the father and mother. It is worth citing the following passage from Boland’s text to highlight where this bill is leading Australian society today:
What does this mean for the child or issue of the union? Well, it is mostly not good news. There are some incidental side-effects that from some particular child’s point of view are good, such as the disappearance of the social and legal status of illegitimacy. Generally, however, the child loses not only its legitimacy within the family as a social and legal institution but also its very right to begin to be, let alone to be born, as a natural outcome of the life-long committed personal love of man and woman. It is simply not in the equation. “We will to make love”, but “we do not necessarily will to make what love makes”. The natural connection between sexual intercourse and human generation has been broken. The connection when now made will be purely voluntary.

This quote, it is acknowledged, is within the issue of the law’s recognition of the sacred connection between love, marriage and procreation. It is in this context that the Family Law Act not only divorces two married people by legal process but seeks to divorce the natural rights and duties of the parents in having the immediate rights to rear and educate their children. It is in this context that the Family Law Act and this bill seek to continue to undermine, in my view, the nature of marriage and the indissoluble natural rights and duties of the parents, critically fathers, over their children. It is the role of both parents to have access to and residency with their children that is of paramount importance to the child, not what the state would make as a construct of that interest of the child.

Based on the Family Court’s own statistics, the ‘best interests of the child’ means armies of single mums living out there with children who have little or no access to their natural fathers. The ‘best interests of the child’ means the child being raised without their father at all in a high number of cases. I ask: how does this reality accord with the natural law? Again I remind the parliament that a law that does not accord with the natural law is no law at all. The current so-called Family Court regime—what should be properly called the ‘divorce court’—has decimated families, not solved problems in the best interests of the child. The real policy impact is to produce armies of single mums raising children who are separated physically, intellectually and emotionally from their fathers—often worsening, not bettering, the views of those children of their natural fathers.

Children are now pawns, sadly—weapons of the state to ensure that the parents’ assets and lives are torn apart for the benefit of those ideologists who would have us believe that this is a better system than the fault divorce system it replaced. Divorce is now a piece of paper. ‘Children’s rights’ and the ‘best interests of the child’ are nothing more than mantras to justify the persistent destruction of the family unit and in particular the interests of fathers, who are decimated by a system that is statistically and demonstrably biased to a very high degree, as I said earlier.

It has therefore come to the point where I must urge both houses of parliament to restore power to the hands of both parents in the rearing of a child. It is imperative, in my view, that the laws reflect the natural law, giving full recognition to the procreative and educational immediate rights of the parent over the state. I have said in earlier speeches in this House, as far back as 1999, that the state’s right to determine what is in the best interests of the child should be reserved only for situations of wards of state, where the parent or parents are either dead or intellectually incapable of fulfilling their obligations. That is my view. To have the court’s vision statutorily set by so-called children’s lawyers and shrinks is to deny the most basic rights of both parents in the natural and procreative functions of rearing, educating and nurturing their own issue.
I believe that this government violates the most basic interests and rights of all parents throughout Australia. Further, this law only serves to destroy civic society by attacking both family and marriage. This law seeks to deny the most basic natural rights of the parents, in particular fathers, and in doing so usurp for itself the power of a parent. As any person who has had the misfortune of having to go through the Family Court of Australia for a contravention order will tell you, the state makes a poor parent. The state could not care less. The state is impotent to prevent one parent contravening access or residency orders.

I believe there is little justice in our present system. Parents are driven to despair because the state, on the one hand, usurps for itself the immediate rights as a parent yet, on the other hand, does not have the immediate capacity to deal with the ever growing and embarrassing statistics on applications for contravention orders. Put another way, a piece of paper known as a contravention order means absolutely nothing on the ground.

The immediate issue and immediate rights lie with both parents having equal access to the children in all but the most dire circumstances. Sadly, this bill does not achieve that, for the bill not only preserves but enhances the powers of the state in determining access and residency. Unfortunately, based on the statistical history of the Family Court of Australia, it is clear that the bias against fathers and in favour of mothers will continue indefinitely. Therefore, this bill, in my view, is impotent. Until this government wakes up to the reality that its family law is in fundamental contradiction to the natural rights of both parents to rear and educate their children as a fundamental procreative right and restores such power to both parents, this government is doing no more than wasting our time in this House today with meaningless bills such as this, which can only serve to worsen the situation for those long-suffering parents, particularly fathers, who have had to suffer the horror and shame that is our current Family ‘Divorce’ Court of Australia.

Sitting suspended from 12.56 pm to 4.03 pm

Mr WAKELIN (Grey) (4.03 pm)—It is not my intention to speak on the Family Law Amendment (Shared Parental Responsibility) Bill 2005 at any great length, except to say that this is an important sequel to some very long discussions. When I first came to this place in 1993 it occupied a lot of our time. We were then in opposition and we regularly had up to 30 backbenchers involved in discussion to see what we could do. It has been a long story. We now have the work of two parliamentary committees in this particular parliament and we had the Andrews committee review of some parliaments ago. This bill is something that every member of parliament very much welcomes.

I have always felt—and I think that, in summing up a bill like this, there is an opportunity to say things like this—that the family law issue, particularly the Child Support Scheme, was one of the very fundamental intrusions into family life. It was ill conceived. It did not have a proper balance between the parents, whether they were mother or father, and it did seem to become somewhat gender biased. I do not know that anyone particularly sought to do that. Some did, but I do not know that the majority did. I think it was just the fashion of the times to endeavour to catch up and deal with the changes of Justice Murphy many years ago in terms of divorce and the subsequent rise in divorce rates et cetera. Now we have something like a 50 per cent breakdown in families, separation of parents, and the issues that result. I am advised that something like a million children—which is a very significant part of our population—are only living with, at best, one parent.
I believe that it was ill conceived, that it was a fundamental breach of individual rights and that, in a democracy, it lacked recourse—it was heavy-handed legislation. It really did create a lot of resentment. As if marriages, as if family separation, are not challenging enough in themselves! Particularly when there is a separation, the resultant sorting out of all of that is stressful enough without adding this quite draconian Child Support Scheme, which intruded in a way which many men, particularly, did not expect. Certainly they came to know it—they came to know it very well—but there was a lot of tragedy along the way. Certainly, in my view, it exacerbated the outcome for very many children.

Therefore, I welcome this bill today. As has been said by many, it will not be a perfect bill. When you are dealing with such difficult issues as family breakdown, the best interests of children and our court system, this will be an evolving issue. As we acknowledge, family law should be about fundamentally supporting our children. We acknowledge that it must respect the rights and, perhaps more importantly, the responsibilities of both parents. Fundamental to me is that, in this very challenging environment of high emotion, it must reduce adversarial advocacy to a minimum as much as possible. If ever there is a time for cool heads, for calm approaches, for conciliation, it is at a time of family breakdown. Therefore—and this challenges the traditional legal approach of adversarial legal practitioners—this is where the more negotiating style, the reconciliation approach, is far more important.

I welcome everything that is in this bill, because it does address a lot of the issues. I will not go over what has been covered in the second reading speech and by many other speakers. I would like to dedicate this bill to the very many members of parliament on both sides of this House who have put so much into trying to come to terms with very dynamic and evolving family and societal issues, particularly to Kay Hull, to Peter Slipper, to Minister Brough, to my colleague to my right, Paul Neville, who has had an abiding interest in this over many years—I know I should refer to these members by their seats, but my memory is not good enough—and certainly to someone like Roger Price.

The DEPUTY SPEAKER (Mr Hatton)—I will excuse the member for Grey in this instance.

Mr WAKELIN—To conclude: I dedicate this to those individuals whom I have known, having just named a few of them, to have put so much into this over many years. I particularly dedicate it to Australia’s children. They will be the beneficiaries. We as a parliament will be the better for it. Our electorate offices—with the appropriate legal support, the appropriate Public Service support and the appropriate family relationships support—will be involved from time to time. No doubt our electorate offices and our staff particularly will appreciate a mechanism whereby we can take as much of the angst as possible out of this vexed issue. I welcome the legislation and I wish it a speedy passage.

Ms GRIERSON (Newcastle) (4.10 pm)—I rise to speak on the Family Law Amendment (Shared Parental Responsibility) Bill 2005 and to support the amendment put forward by the member for Gellibrand. This legislation introduces major changes to the Family Law Act, and much of it has been developed as part of the government’s response to the 2003 House of Representatives Standing Committee on Family and Community Affairs report Every picture tells a story. I understand from the Labor members who were part of that committee inquiry just how moving it was for the committee members, how involved they were and how determined they were to bring about change.
The key changes to be made under this legislation include introducing a presumption of shared parental responsibility; requiring the court to consider equal significant and substantial shared time with both parents; introducing compulsory mediation before litigation, with limited exceptions; introducing less adversarial court processes for cases involving children; promoting parenting plans, agreed between parents without lawyers; and providing the legislative basis for a major increase in family relationship services through the creation of 65 family relationship centres. I note and welcome that one family relationship centre is being established in my electorate of Newcastle. With a higher than state average divorce rate, it certainly is needed. The legislation also introduces other changes, including new penalties for noncompliance with orders, for vexatious complaints and for false allegations of domestic violence. We on this side of the House support the increased expenditure on family support services and the government’s attempt to respond to the issues raised in the Every picture tells a story report. However, we—and I certainly—have some reservations about this legislation which need to be examined.

Firstly, we must ensure that the tender process for the family relationship centres is open, transparent and accountable. I have some major reservations about the amount of outsourcing of services by this government to private service providers. As Deputy Chair of the Joint Committee of Public Accounts and Audit, I can assure the House that I have seen just how problematic in the delivery process many government contracts can be. We do not want a situation whereby a few major companies are competing with each other for potentially lucrative contracts, driving down costs but also driving down the quality of the service they provide. As a regional member, as the member for Newcastle, I do not want to see smaller local service providers cut out of the process, denying our community the local knowledge, experience, commitment and expertise that they bring. I have pointed out many times in this place the major problems we have found with contracts—for example, those let by the Department of Immigration and Multicultural Affairs for migrant services in my electorate. I think there are some lessons to be learned.

We need these family relationship centres to be properly supported and resourced, to be of very high quality, to be correctly placed and certainly to be adequately regulated. Quality is what we are after. We must also realise that these family relationship centres are not going to make up for the damage that the government is doing to family relationships with its policies in other areas—that is, measures like its completely family-unfriendly Work Choices legislation and its ongoing failure to make child care affordable and accessible to ordinary working families. Family relationship centres are a fair start, but there is so much more that the government could do to support family relationships before they break down or to prevent them breaking down.

So Labor does support the broad aims of the bill and we agree that parents should be encouraged to take more responsibility for their children. But it should never be just a case of dividing that shared time fifty-fifty. It is about dividing responsibility, it is about dividing and apportioning care on the ability to deliver that care in a sustained, responsible and loving way.

We support the prioritising of children’s needs following family breakdown. This has been and must continue to be a key concern. When we are dealing with children after family breakdown it always requires expertise—expert judges and expert counsellors. We cannot accept a lesser solution. Cases that proceed to the Family Court after all are the ones that in many ways
present with multiple and complex issues. They are often entrenched, insoluble and the result of major disorders and dysfunctions. With this in mind, I am pleased to see the government has backed down and supported Labor’s call for family law to recognise parental obligations to children and not simply focus on parental rights.

As always, the member for Gellibrand has clinically examined the government’s legislation and shown how it can be improved. I would particularly like to acknowledge and thank her for her work on this legislation, and I am pleased to support the second reading amendment that she has proposed. In doing so, I would like to point out other reservations that I have with this legislation.

While I support the aim of encouraging involvement from both parents, children must always be the first consideration. We should therefore focus more on responsibilities and quality care, and less on parental rights and a division of time. Indeed, it appears that the government has been creating perhaps an unrealistic expectation that this legislation will create a right to equal parenting time. This legislation does not do that, and quite rightly so. There will never be, and can never be, a one-size-fits-all formula for dealing with relationship breakdowns and for dealing with the needs of children.

As an educator for 30 years and as a school principal for over 10 years, I have seen and dealt with the impact of family breakdown at the coalface. I know that simplistic, formulaic approaches do not work. I have seen outstanding parenting by all types of carers after family breakdowns, by actual blood parents, by grandparents, by single parents and by step-parents not at all related to the children and by both parents in the case of shared parents. But by the same token, I have seen heart-wrenching examples of terrible abuse and neglect of children by all those types of parents and guardians, whether it is mother, father, grandmother, aunt or step-parent. Those things happen and sadly it will always be a case of looking at the individual context and needs.

As I said, there is no formula. Children need love, care and security and our obligation to children is always immense. We just cannot reach for a calculator. Sadly, in our electorates, we do see cases where the calculator is very much out there, and it is often about gaining access to benefits—half a child equals half a benefit. That is the saddest type of approach to parenting.

One final note on Labor’s amendment is that it calls for these changes to be properly reviewed to ensure they are both effective and keeping up with societal change. This is sensible and it should be adopted. I welcome the government’s commitment to addressing family law issues through this legislation and I welcome the $400 million injection into support services, including the family relationship centres.

However, as I noted before, there is still room for improvement. I particularly have some reservations about the penalties for vexatious parents. I can understand that you do not want to discourage parents from coming forward with the thought of having to pay a penalty if there is a suspicion they are not doing it legitimately. That is perhaps not the right deterrent but certainly there should be some deterrent. I am not sure that this gets it right but I am not sure what the solution is.

In fact, when we look at some of the reservations and room for improvement, in my electorate of Newcastle all these legislative improvements will not redress the difficulties that
exist for families bringing matters before the Newcastle Family Court registry. I would like once again to bring the House’s attention to an issue that I have been raising for quite some time—it is of great importance to my electorate—concerning the ongoing problem of the lack of a second Family Court judge in the Newcastle registry. I have raised this issue with the Attorney-General and with the administrators of the Family Court this year again and I would like to take the opportunity to express my appreciation to the Attorney-General for his consideration of this issue. In response to my representations and those of the legal community of Newcastle, he has shown a good understanding of the needs of our city. But what we want is a second judge. We want him to stamp his authority on this issue and deliver that second resident permanent judge to the Family Court registry in Newcastle. I note that representatives from Newcastle Law Society and Family Law Society will be meeting the Attorney-General this week to further discuss the need for a second permanent Family Court judge. I remain hopeful that once they have had a chance to put forward our region’s compelling case it will be looked upon favourably.

The Newcastle registry service is not only for families in my electorate. It serves the Hunter region. It also serves those in the Central Coast, in the south, in Kempsey to the north, Narrabri and Moree to the west and all points in between. It also serves the communities of Tamworth and Armidale where there are sittings of the Newcastle registry. Up until 1998 the Newcastle registry had two resident judges, but since one retired in that year it has been left with just one judge that is clearly and specifically appointed to our court.

It is clear that the amount of resources available to the Newcastle registry has distinctly fallen. In 1998 we had two resident judges and a full-time registrar. We now have one resident judge, two full-time federal magistrates and access to a minimal amount of registrar time. While it has been claimed that this amounts to an increase in total resourcing, I know from the legal fraternity and from constituents that two full-time judges are essential for the Newcastle registry. It is always the case that long, defended cases must be heard by a judge. The number of those cases, unfortunately, does not diminish in our region. Federal magistrates and Family Court registrars simply do not do that work.

To make up the shortfall, the Newcastle registry does receive some of the time of judges based in Sydney and Parramatta. However, this is clearly a second-rate option. It is expensive in terms of travel and accommodation for judges and staff and there is a feeling expressed by the legal community that these judges are often not as familiar with the culture of our region and certainly do not deliver the commitment to sitting times that is required. When they can get on a plane or a train or in a car and go back home to another city, that is what they do very frequently. It is also a second-rate option because it is clearly failing to provide the resources necessary for the caseload of the Newcastle registry.

The longer we have been without a second resident judge, the further behind our caseload has fallen. By late last year we found that matters being heard in Newcastle had actually commenced 25 months previously. That is over two years that families who are obviously in significant distress are made to wait to have their matters heard. Anyone who has been in that situation knows that emotions just build. They do not improve and, certainly, time is often a complication for the way these things are settled.

By way of comparison, matters heard in the Parramatta registry were commenced only nine months previously. Why this disparity? The Parramatta registry, serving a population roughly

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double that of the Newcastle registry, last year had six resident judges—double the number of cases but six times as many resident judges. I have been informed that one of Paramatta’s judges has since been allocated to Brisbane. That does not make me feel any better. That does not help the families of Newcastle. It does not help the families of New South Wales outside Sydney, and it still leaves Parramatta five times overresourced compared to our registry. That judge should have been appointed to Newcastle.

I have also been informed that, while Newcastle was allocated an additional 20 weeks of judicial time in 2005-06, this will simply assist to bring the registry’s resources up to the current level of need. It will still take around three years to deal with the backlog of cases before it. The court cannot simply be focused on disposing of older cases, and indeed it is not policy to do so at the Newcastle registry. You cannot prioritise cases or find shortcuts to these. All cases before the court need to be assessed upon their needs and dealt with thoroughly and according to legal considerations. The backlog of cases in Newcastle has become so appalling that I am advised that many cases are now being filed in Parramatta or Sydney, where the delays are not so great. While this may look like a solution and it may be leading to figures that show a decrease in the number of new matters in Newcastle, it is not good policy to force families from almost the Queensland border to the Central Coast to have to travel to Sydney to have their matters dealt with.

The legislation before us will see extra resources being provided to the family relationship centres to be established in Newcastle. However, a family relationship centre will never be a substitute for a properly resourced Family Court registry. A family relationship centre is not going to help the families waiting over two years to have their matters heard in the Family Court. I certainly would not like to be in their shoes.

The region served by the Newcastle registry needs this service desperately. The 2001 census tells us that 13.1 per cent of families in Newcastle are sole parents with children, around 8,000 families have an income of less than $500 a week, 10 per cent of people are estimated to be living in poverty and there are 4,600 child support cases. In the areas around Newcastle—the rural areas of the Hunter, the mid-north coast and the tablelands area—these figures are similar if not worse.

I fully support the goals of the family relationship centres, but for those already in the system we need those extra judicial resources in the Newcastle registry of the Family Court. We need them for the future as well, because the state government has referred its powers over de facto relationship matters to the federal system. Parliament will be dealing with that legislation soon. That will certainly have a dramatic impact on increasing the caseload of the Family Court.

My electorate represents 17 per cent of the state population but has 19 per cent of all divorces. It is believed that we have a significantly higher proportion of de facto relationships as well. The Newcastle registry will also have to deal with the consequences of breakdowns in these relationships in the future.

The Federal Magistrates Court is also taking on an expanded role. It is already dealing with bankruptcy, with immigration, trade practices and administrative matters no doubt to follow. It is clear that the Newcastle registry’s workload will continue to increase. We must be ready to meet this challenge and provide the services that families across our region need.
In addition to the judicial resources I have referred to, we are also in need of extra physical resources in the shape of a new Federal Court building. As far back as 2002 warnings were being raised about the inappropriateness of the Federal Court facilities in Newcastle. I noted in the newspaper recently that Sydney’s Family Court building was being prepared for a $2 million facelift. If you have not been to the Sydney court, go and have a look. It reeks of leather and marble and wood. It is beautiful. Come to ours and you will see that we have only four courts and that our judges and magistrates have to walk across a public road and use a Supreme Court or state court in a different area of the precinct, which defies all security needs. You will also see lawyers trying to brief their clients in public areas. We have the highest incidence of attempts to bring in weapons through our secure areas, and we have been raising this for a long time.

It is now 2006 and the Newcastle courts have none of these ‘good access, good security, excellent facilities’ that I gather the Sydney Family Court is going to have, according to the Law Council of New South Wales. I understand that negotiations are currently under way for new purpose-built accommodation for both the Family Court and the Federal Magistrates Court in Newcastle. This is a welcome development, and it is long overdue. But I do have reservations again that any new building must be appropriate to meet the expected future growth of our courts. We do not want a bandaid solution. We currently have four courts available in Newcastle. I believe that if we were to move to accommodation that provided for, say, six courts, even this would be a stopgap measure with no room for expansion.

It is now apparent that the funding for this new accommodation—bigger, so obviously at a higher rent—has to come out of the Family Court’s existing budget. Their workload is increasing and their budget resources are going to be stretched, yet they have to pay for improvements in the Newcastle court out of their existing budget, with no separate budget allocation from this government. When I look at that surplus, I think, ‘My goodness, don’t give us a cheap, second-rate option; give us an option that is paid for by a special budget allocation to make sure we get the best facility that is possible that caters for present, future and expanding needs.’ When I talk about a Federal Court, it would be wonderful to think that a whole expansion of legal services in the federal magistracy would be built into our legal community. That is why a Federal Court would be most appropriate.

We need a specific budget allocation to allow for this improved accommodation so that cuts do not have to be made to the court’s other activities. We have two pressing needs for the families of Newcastle and of regional northern New South Wales. Our Family Court needs another permanent resident judge and we need improved, appropriate and better accommodation for our courts. I know that the Attorney-General is considering these arguments on their merits and I look forward to a successful outcome for my electorate. I sincerely believe that he wants to tick off on this one. While the legislation before us today is a step in the right direction to improve the family law system, it will not mean much to the people of Newcastle, the Hunter region, the North Coast and tablelands areas if our Family Court is not adequately resourced.

Mr NEVILLE (Hinkler) (4.30 pm)—The reforms contained in the Family Law Amendment (Shared Parental Responsibility) Bill 2005 represent the most significant changes to the Family Law Act 1975 since its inception 30 years ago. They will create a new future for Australian families and for our society as a whole. The amendments in the bill address myriad
problems faced by families going through the traumas of family breakdown—everything from custody negotiation and enforcement of court orders through to the establishment of improved counselling and dispute resolution services.

It is an enormous task to try to smooth out the peaks and troughs in our landscape of family law, but I think almost everyone who has experienced the trauma of a family breakdown would agree that these reforms are long overdue. I have met hundreds of men and women whose access to their children has been restricted, who have lived with domestic violence, who struggle with difficult financial commitments and who live with angst, hurt and personal vindictiveness that all too often come from relationship breakdown. I have seen many non-custodial parents becoming extraordinarily distressed from being deprived of contact with their children. In addition, I have seen the victims of domestic violence placed in unbelievably difficult situations because of the limitations of existing laws.

There has to be a circuit breaker which will see these non-custodial parents being able to enjoy their children and will ensure that the custodian of children feels free from intimidation and violence. The manipulation of either of these two positions—and we see a lot of that in our electorate offices, such as not sending the kids to court ordered or agreed contact times or falsely contriving domestic violence orders—should receive the full force of the law. Our family law system needs to approach individual cases on an impartial basis, with the presumption of shared responsibility and shared rights of parents and with the welfare of children at the forefront of every consideration.

I commend the work of the House of Representatives Family and Community Affairs Committee in compiling its report *Every picture tells a story*, which has provided a strong platform for the new raft of legislation. The committee’s inquiry into child custody arrangements in the event of family separation took 1,716 submissions from hundreds of different groups ranging from lone fathers associations to academic and legal centres, private citizens, politicians and domestic violence agencies. Members of the committee were exposed to and considered many points of view before the final report was compiled and I commend the committee and in particular its chair, Kay Hull, the member for Riverina, for the excellent work done. Just deviating for a moment from the general tone of this speech, I would also compliment Barry Wakelin, the member for Grey, Minister Brough and the former member for Richmond, Larry Anthony, who headed up internal coalition committees that, in turn, set the preliminary foundation for the Hull committee. Without the hard work of all four of these committees we would not be debating the merits of the amendments here today.

I consider many of the report’s recommendations to be straight-out commonsense and I am sure that they will make the quality of life of many families affected by breakdown appreciably better. Nurturing better relationships between separated parents is the crux of achieving better outcomes for all concerned, particularly for children, when it comes to family breakdown. The bill will help create a non-confrontational environment for parents. It will encourage them to come to access and financial arrangements without having to resort to the court system.

Under these reforms people will first have to attend family dispute resolution and make a genuine effort to resolve their problems before starting the parental order process. That is why the government is rolling out 65 family relationship centres around the nation as part of these reforms. One of these centres will be based in Bundaberg, in my electorate, much to the satis-
faction of local families and community support groups. The centre will be the front door to the new family law system and will support families at all stages of their relationships by strengthening their family relationships, preventing separation wherever possible and enabling parents to resolve conflict in separation. All these things are in the interests of their children.

It is a sad fact that more than one million Australian children have a parent living elsewhere and almost 300,000 of these children have no contact with their fathers. At the last census 12 per cent of all families in my electorate were single parent families. If you like, in hard figures the figure for Hinkler was 9,395 single parents. That is an awful lot of people having to cope with tricky custody arrangements, child support payments, other financial arrangements and the flow-on effect on other relationships. It is also an awful lot of children to have limited contact with the non-custodial parent.

An Australian Bureau of Statistics report of 2003 showed that 26 per cent of children in broken households saw their non-custodial parent less than once a year or not at all—26 per cent. The same report showed that 49 per cent of children from broken homes never had an overnight stay with a non-custodial parent. That is a shame. That is nearly half—very bad.

The Australian Institute of Family Studies report Parent-child contact and post-separation parenting arrangements of 2004 backed up those figures with its own startling results. The indicators for custodial mothers whose children have little or no contact with their fathers were quite alarming: 53 per cent of these mothers were unemployed, 50 per cent had no educational qualifications, almost 61 per cent did not own their own homes, 54 per cent had personal incomes of less than $15,000 and more than 70 per cent received no child support. What sort of environment is that for a child to grow up in?

The same study showed a very different result for mothers who had shared care arrangements with the father of their children—and that is not to say that they got on well but that they had got the relationship down to a sensible basis. When you look at the figures there, almost 47 per cent of those women had full-time employment, 67 per cent owned their own home, 35 per cent had a personal income upwards of $35,000 and more than 50 per cent received child support payments.

Perhaps an argument could be made that people who have had few advantages in life, those who are both figuratively and literally holding the baby, are more at risk. But, alternatively, these figures could support the case that separated parents who share custody of their children ultimately enjoy a more stable and fulfilling lifestyle. I think that is what we should use as a starting point. Undoubtedly, the best possible outcome for children in many instances is shared parenting custody arrangements. I am a strong believer that magistrates hearing such cases should enter the hearings with the presupposition that parents have equal shared responsibility and have equal time with the child or children to the extent that that is physically possible.

Of course, the facts of modern-day life mean that shared parenting can only work in a limited number of cases where parents live in reasonably close proximity. It is simply unrealistic to expect children to travel from one parent to the other over long distances time and time again. That creates its own level of dysfunction. In that instance, courts must consider an arrangement for children to spend substantially more time with both parents that will translate into not just weekends and holidays but also doing day-to-day things with them that other kids expect and enjoy.
I also applaud the direction that courts must also consider whether parents fail to fulfil their major responsibilities, like failing to pay child support or not turning up for prearranged pick-ups. When these reforms were first announced, I was quite surprised to receive feedback from one women’s domestic violence group concerning these reforms, saying that these reforms could lead to greater violence being inflicted on women and children. I do not accept that. One point they made particularly angered me. It was this group’s assertion that women, in the main—they did not say exclusively—claiming to have experienced domestic violence should not have to produce evidence of these claims. This is quite an outrageous expectation and one that is punitive with regard to fathers. It is only right and proper that, if an individual wants to make a serious allegation about a former partner, they should front up with the evidence and not just expect that a magistrate will take their word on something which will have lifelong ramifications for the members of that family.

I see a lot of this. In fact, there is one particular lawyer—I had better not name the town; let us say that it is in my general vicinity—whose modus operandi is this: ‘Take off and get into a house somewhere; it will take him three months to find you and, when he gets there, no matter how calm or good he is, slap a domestic violence order on him.’ One of the ex-wives said, ‘Why would you want to do that?’ This lawyer said, ‘It will be better when we get it into the Family Court later.’ That sort of thing is going on. I am not saying that every person does it, but there are even lawyers producing it. I think the new arrangements that are part of this bill which take some of the adversarial nature out of the issues will lead to a much better lifestyle for people.

I further believe that it is only right that individuals who present false evidence to courts should be suitably punished as they would be punished in any other court for a similar misdemeanour. Of course, where there is real violence and threatening behaviour, the court should be equally tough. Magistrates should take it into account in their final decision on custody and access arrangements. So I support both sides of that agenda.

In finishing, I would like to make one other point. I made this point to the committee in my evidence to them. I am sorry that it is not part of the bill. I suppose it is not quite within the strict portfolio area. I think that, where all of these arrangements for counselling are made and where pre-parenting arrangement meetings are being held and so on and where these break down—in other words, for these intractable cases that end up in courts—we should have a very strict rule. Where the parents are of equal or near equal means, both parents should receive legal aid or neither parent should. Where they are not of equal means—where you have a very rich ex-husband and a very poor ex-wife or vice versa—of course legal aid should be given to the one who needs assistance.

I have seen some outrageously unfair decisions in the way of legal aid. The opposition was talking earlier about the Family Court in Parramatta. I remember one gentleman from my electorate used to hitchhike from Gin Gin, west of Bundaberg, to the Parramatta Family Court. He used to live in a dosshouse, because he could not afford any decent accommodation, and then front up to the court, where the wife had a barrister and, because of the contentious nature of the action, the children had a barrister. Both had solicitors. So he goes in there to represent himself and face the Family Court after hitchhiking several thousand kilometres. That is not equality before the law.
My proposition is that we should put legal aid into two buckets. Family Court legal aid should be on that basis. Where people are of like or similar means, both should receive legal aid or neither should so that they both appear before the court on equal terms.

The family law system will always be a difficult system. Amendments contained in this bill will go a fair way to improving the situation. I hope it creates a climate which focuses on conciliation and negotiation, rather than on conflict, and that the welfare of children is paramount in all its considerations. For that reason, in again complimenting Kay Hull and her committee, I give strong support to this bill and commend it to the chamber.

Ms HALL (Shortland) (4.45 pm)—There is no issue that is more disturbing for a member of parliament than to have parents and grandparents coming to your office distraught about issues surrounding a child, distraught for themselves and distraught about the system. I, like many members of this chamber, have dealt with both parties—the custodial parent and the non-custodial parent. From time to time, I really become overwhelmed by the feeling that somewhere amongst this mess we have lost sight of what it is all about. It is all about the children. They are vibrant young beings who have a future in front of them. The role of parents is to help them to achieve their potential.

So often I find that the dispute that led to the breakdown of the marriage, the angst, the anger, has manifest itself in a fight over the children. The children become the pawns. They become another aspect of the hatred that the parents feel for each other. They are another way that the parents can manipulate events against each other. I find that very concerning. Family law and anything that deals with the future of children should be purely and simply about what is best for those children. I think that that is so often lost when we are talking about family law. It is about the children, and we must never lose sight of that.

The Family Law Amendment (Shared Parental Responsibility) Bill 2005 is a major reform of the Family Law Act. I appreciate that the Standing Committee on Family and Community Affairs considered this issue. I know that members on this side of the House and on the other side of the House became quite emotionally involved in the inquiry. It is the kind of inquiry that it is very difficult to separate yourself from because, as I stated at the beginning of my contribution, this is about real, live people. The committee brought down an excellent report, entitled Every picture tells a story. I would like to acknowledge the fine work that they have done.

This legislation includes the following reforms to the Family Law Act: it introduces a rebuttable presumption of shared parental responsibility; it requires the court to consider equal, significant and substantial shared time with both parents; and it introduces compulsory mediation before litigation, with limited exceptions.

I note that the previous speaker highlighted a particular court case, and I also do not think there is equity in the system. You could be in a courtroom where there was a solicitor or a barrister for the custodial parent and for the non-custodial parent, and, if there were three or four children, separate legal representation for each of them, and yet the best and most just result for those children would not necessarily be delivered. It just becomes an extension of the battle that is taking place. There is a problem in the system.

This legislation also introduces a less adversarial court process, which will be good. It promotes parenting plans as agreed between parents without lawyers—and I know those par-
etting plans can work. It provides, among other changes, a legislative basis for a major in-
crease in family relationship services through the creation of 65 family relationship centres.

I turn now to a meeting I had in my office on Friday, 20 January. It was a roundtable meet-
ing and included Susan Sanders-Cook, Val McEwan, Stephen Bowskill, Howard Learmouth, Nellie Fennell, Sonia Anderson, Barbara Tebo, Terry Tebo, Michael Lewis and Michael Rid-
dell, and I thank them very much for the time they put aside that day to spend with me and for sharing with me their ideas.

Out of that meeting, Sonia Anderson, who is a solicitor, put together a submission, *A grass-
roots response to the family law reform*, highlighting the group’s ideas for making the system better and fairer. The submission starts off by emphasising the need for a bipartisan approach towards family relationship issues. I think that is paramount if anything is to change. The re-
forms, the group emphasised, should attempt to answer two questions:

1. What is in the best interests of the child/children?
2. How does the Court determine what is in the best interests of the child/children?

They continue:

The reforms are aimed at providing a new recipe/formula for the Court and Family Law Dispute Reso-
lution Services to use in an attempt to answer these questions.

These are the reforms that the group is suggesting.

They go on to say that their submission has a very narrow focus. It focuses ‘solely on the development of an alternative approach for those people who wish to explore the possibility of answering these questions themselves’. Their concern is that the family relationship centres are too directive. They believe that the family relationship centres, as detailed in the govern-
ment’s reform package, should be encouraging individuals to develop solutions for them-
selves. The current proposal for these centres, they argue, ‘will do little to empower disputing parties towards developing their own solutions’.

It was argued very strongly to me that the best solutions are solutions that the parties can sit down and agree to. To go back to those parenting plans: if the parents can sit down together and develop a plan that is in the interests of the child or children, you will get the best out-
come.

It is interesting to note that the people who attended this particular meeting included repre-
sentatives from fathers groups, as well as people who practise in the area of social and psy-
chological wellbeing. We had people from the field of education—a professor, a teacher and a lecturer in teaching at Newcastle University. And, I must not forget, we also had a grand-
mother involved. So these people came from very diverse backgrounds.

What they were arguing very strongly was that the government’s family relationship cen-
tres in their current form are an advisory dispute resolution service. They feel that the best results would be achieved by a facilitative dispute resolution system. It is argued that if the government were truly looking for cultural change then they would consider the differences between these two different methods of dispute resolution. They would soon find that by adopting a facilitative approach to dispute resolution it would empower both parties involved in the resolution of the problems rather than abrogate or hand over responsibility of those par-
ties to a professional to solve the problem for them.
It is further argued that, in the shift from advisory dispute resolution towards facilitative dispute resolution, real cultural change would be achieved. The model that is being proposed and included in this legislation does little other than extend the current system—non-adversarial advisory dispute resolution as distinct from adversarial dispute resolution. The reason for this is purely and simply because the government has not been able to develop a concept of facilitative dispute resolution.

I ask the House and the members to remember that these people who attended my office on 20 January and who put together this submission are all people who have been involved in the family law system for a very long time. Many of them would see themselves as victims of the system. Many of them have been fighting to have changes made for a very long period of time. I think that what they have suggested is a very fair and reasonable approach. They also emphasise the need for education programs that will enable parents, grandparents and significant others to understand their own role in the family dynamics. As members would know, recent research has shown just how important extended family and significant others are in the development of children.

I hope the House and the government look at and think about what I have outlined in my contribution in relation to the difference between facilitative dispute resolution and advisory dispute resolution. The difference is between taking control of your life and handing it over to professionals, allowing them to take responsibility for determining where you go in the future and where your family goes.

I will also make a contribution about the government’s family relationship centres tender process. I do not believe it has been open and transparent and I think there is a lack of accountability. One of the most important things is for people to understand the process that has been involved in determining where those family relationship centres will be located. Each and every one of us has families and constituents that are affected by family law. So I think it is not the best approach, in determining where those centres should be located, to appoint a group of marginal-seat government backbenchers to make that decision. I believe that the process should be a lot more transparent. The whole process, its underlying effectiveness and its acceptance within the community, will be affected by that.

It is very important too that those services that are provided through the family relationship centres should be of a high quality. I again urge the government to look at adopting the facilitative approach as opposed to the advisory approach. I will be so bold as to suggest that they may like to pilot a facilitative approach in one of the family relationship centres. And if they would like to make a commitment to setting up a family relationship centre in the Shortland electorate, I would be more than happy to welcome one into my electorate.

It is very sad that there are so many separations within our community and so many families where children have their parents living in different places, with children being torn between the two parents. The government needs to take some responsibility for that. There are many pressures on family today, and families need and deserve a high level of support. I worry about the new industrial relations legislation that has recently passed the House. I think it is going to place greater strain on families. I do not think that anything that has happened in recent times will help alleviate the pressures that lead to family breakdown. The government needs to be more proactive. Family relationship centres could, on the face of it, appear to be
more proactive, but I would argue that they are far too late—their approach needs to be a lot earlier, and it needs to be from a very different perspective.

In conclusion, I support the amendment moved by the shadow Attorney-General and I implore the House, the minister and the government to consider the suggestion that I have made today in my contribution.

Mr HAASE (Kalgoorlie) (5.03 pm)—I rise to speak in support of the Family Law Amendment (Shared Parental Responsibility) Bill 2005, which represents the most significant reforms to the family law system in 30 years. I am proud to be part of a government which is taking such a strong stance on an issue as important as this—that is, the responsibilities that parents have for their children.

In my maiden speech to this House in 1998 I talked about the plight of non-custodial parents. At the time I said:

The Family Court and the controls placed by the Child Support Agency are creating a cohort of second-class citizens. As a result, many people are marginalised. The statistics in my electorate indicate that 3,800 non-custodial parents are affected—and today that total number of men and women in the Kalgoorlie electorate who are in the clutches of the CSA has grown to 9,000—but that is not the end of this issue. Many current partners of the non-custodial parents—and the children from the second family for which they are now responsible—are inextricably damned by decisions made by the Family Court. The act that encourages this unfair situation is the Family Law Act of 1975. In the last 23 years, the economic and parenting roles of men and women have irreversibly changed, to the point where this legislation no longer reflects the role models and aspirations of society. The Child Support Agency—supposedly the cheap, easy, flat formula method of child support which was meant to create a process to give satisfactory levels of child support—has created a rigidity that is leading to the destruction of non-custodial parents’ lives.

That was true then and it is sadly true to this day. It is now seven years since I made those comments, and many of the changes effected by this legislation are considered to be well overdue. I am conscious of the disappointment of many people that the introduction of these changes will not be effective immediately.

The government is trying not to force couples to stay together or lecture them or their families with this bill, but to help parents to move away from litigation and towards cooperation. This is not Big Brother in the living room. This is, however, bold reform that is vital to changing the culture of litigation. That is why the Australian government has committed $400 million to this project over the next four years. This bill amends the Family Law Act 1975 to implement a number of the recommendations of the House of Representatives Standing Committee on Family and Community Affairs inquiry into child custody arrangements in the event of family separation and its report, Every picture tells a story. It has been a longstanding policy of this government to encourage people to take responsibility for resolving disputes in a non-adversarial manner.

The key changes in the shared parenting bill are: to introduce the new presumption of equal shared parental responsibility; to require parents to attend family dispute resolution and make a genuine effort to resolve their dispute before taking a parenting matter to court when there is no question of harm; to make it the right of the child to know their parents and be protected from harm; to amend the existing definition of ‘family violence’ to make clear that a fear or
apprehension of violence must be reasonable; to strengthen the existing enforcement regime by giving the courts a wider range of powers; to require the court to consider whether a child spending equal time with both parents is reasonably practical and in the best interests of the child; to require the court to take into account parents who fail to fulfil their responsibilities; and to better recognise the interests of the child in spending time with grandparents and other relatives.

The presumption of this bill is that the parents have joint parental responsibility for the child. Joint parental responsibility means that decisions about major long-term issues such as education, health and religion will be made by both parents for the benefit of the child. The amendments in this schedule also clarify what joint parental responsibility means for parents when they are making agreements about parenting arrangements. These include time, communication, maintenance and decision making.

This provision does not mean that there will be a presumption that the child will spend equal time with each parent. The committee rejected the notion of fifty-fifty shared custody. The court must consider whether both parents wish to spend substantial time with the child, whether it is reasonably practical for the child to spend this time with their parents and whether it is in the best interests of the child. Where there is a contravention, the court will be required to consider the subsequent parenting plan when considering whether to vary the parenting order. The court will be given greater powers to impose various sanctions against parents who do not comply with agreements, such as compensation for reasonable expenses and costs.

The introduction of this family dispute resolution requirement will increase the demand for dispute resolution services. The government is rolling out family relationship centres and other services to meet this demand. The new family relationship centres will provide help and advice on relationship issues. I was very pleased to learn that one of these centres will be established in the Pilbara, in my electorate. A national toll-free telephone advice line and a website will operate for those not living near a centre. People who are able to reach agreement without assistance of course will not be required to use the dispute resolution services if they do not need them.

When a party is reluctant to participate effectively in family dispute resolution, the court will not allow a dispute to remain unresolved due to simple and deliberate humbug, and will have the power to order attendance. All children have the right to a meaningful relationship with both parents and to be protected from harm. Providing there is no question of harm, both parents should remain involved in caring for their children after separation. Unfortunately, many fathers in my electorate work ‘fly in, fly out’ from Perth and they need great flexibility after a marriage breakdown if they are to see their children. They are simply not home every second weekend. These amendments recognise that children need to be protected from physical and psychological harm which, unfortunately, is far too common. When a relationship breaks down it is often difficult to prevent emotions getting in the way of what should be the focus: the children. An estimated 200 children go through the Family Law Court every day—an unacceptably high number. No child should ever have to suffer such an experience, and parents should think more about the long-term effects of such exposure.

Fathers, who are usually the ones disenfranchised from their children, suffer from grief, resentment and great frustration. Many fathers are bitter about paying the living costs of their
former partners but being prevented from being part of their children’s lives, and many find it too difficult to cope and take their own lives. According to the support group Dads in Distress, 77 fathers separate from their child’s mother every day. On average, at least one of these men suicides every day. The tragic loss of life aside, these suicides cost Australia $7.5 million per day—surely far too high a price to pay. More than one million children living in Australia have one parent living elsewhere. A report by the Australian Institute of Family Studies last year found that more than one-third of children from broken homes spend little or no time with their father, and 26 per cent saw one parent—usually their father—only once a year. That is a huge percentage of the population growing up without the important influence a father has, and also without knowing their paternal relatives.

The irresponsible men who neglect their responsibilities need to be held to account for their actions, but the current system penalises those trying to do the right thing as well. These fathers do not want to take highly paid jobs, as child support is taken as a percentage of their wages, so the economy is suffering. How often do we hear the story that people are leaving a job because they believe that the child support they are paying is being inappropriately spent? There are a number of amendments which provide for a greater role for grandparents and other relatives of a child, and recognise the importance of the relationships the child has with their wider family—in particular their grandparents. There are also provisions for the views of the child to be taken into account without them feeling as though they are actually making the decisions.

This bill is about making situations practical and manageable, and putting the onus back on parents for the wellbeing of their children. Parents do know what is best for their children, but, given that the future leaders of this great nation are the children of today, it is our responsibility to ensure that the emotion of partnership breakdown does not obscure that natural parenting ability. I commend this bill to the House.

Mr HAYES (Werriwa) (5.14 pm)—One of the most difficult issues that will confront many of us or that we will ever have to deal with is family breakdown. I do not think any member of this place would say otherwise. Many members would no doubt deal on a regular basis, through emails or representations from various groups throughout the country, with issues associated with the Family Court and child support agencies. It is clear from my dealings with separated parents that their situation is not their preferred situation. Particularly, it is not the preferred situation for many of the children involved.

The provisions of the Family Law Amendment (Shared Parental Responsibility) Bill 2005 will have a profound impact on many individuals within our community. They will have a profound and often long-lasting effect on those at the heart of the issues involved who, unfortunately, in many instances, will be children. When we consider issues surrounding family law it is too simplistic to say that there are 8,760 hours in a year and that that means that each parent has the right to have the child or children for 4,380 hours a year. Division of parental responsibility is not a mathematical calculation, nor should it be treated as such. It is overly simplistic and far from being in the best interests of the child for separating couples to sit down and divide the time spent caring for children in the same way they might divide the financial and physical assets of their relationship. Children are not a commodity, they are certainly not a consumer good and they should not be treated like toys or the like. Quite frankly,
children must be special and must be treated as such in any relationship. Children should not be the leftover consideration when it comes to separation.

To treat a child in that manner flies in the face of responsible parenting and flies in the face of claims by either parent that they have the best interests of their child or children at heart. In making these comments, I do not shy away from the need for children to have both of their parents available to them despite the parents’ separation. Having both parents available to a child when the child needs it is a better reflection of shared parental responsibility. I support Labor’s continued opposition to the presumption of equal shared parenting time but support and will always support action that allows parents to share parental responsibility in a fair manner—that is, a fair manner that works for them and, most importantly, works for the children involved. It is important to recognise that the bill we have before us today will require a court to apply the presumption that it is in the best interests of the child for parents to have equal parenting responsibility. While I note that parental responsibility is a separate issue from residence or contact, and there is not the focus on time, I am concerned at the implications of changing the starting point for consideration of parental responsibility to the concept of equal shared responsibility.

The presumption will not apply if there are reasonable grounds to believe that one parent has engaged in child abuse or family violence. Under this presumption it is up to one parent to argue that parental responsibility should not be shared. I have to wonder: how is that in the best interests of the child? Using this presumption as a starting point increases the risk of litigation in the future and increases the potential for any ongoing tensions between separated parents to manifest themselves in the important decisions related to the upbringing of their child. I am also concerned about the content of section 60CC of this bill, which deals with what has become known as the ‘best interests of the child test’. The bill will introduce a hierarchy of factors, primarily additional considerations that seem to do little more than complicate matters further. I note that the hierarchy of consideration was also opposed by the courts and the Law Council. I also note that the government has included an additional section—that is, section 60CC(4)—which quite frankly has come directly from Labor and acts to remind parents that parenting is in effect a two-way street. Under this section, it is implicitly recognised that there are parental responsibilities for those who demand parental rights.

Possibly the biggest change under this bill is the introduction of compulsory family dispute resolution for separating parents before they are able to commence court litigation. The insertion of this requirement makes me wonder what the motivation of the government is when it comes to issues surrounding separations. I have to wonder whether this is the first step in a move to try and roll back divorce laws in Australia—to try and have the bureaucracy in the bedroom again, as it was once, before we introduced the no-fault divorce into our country.

Earlier this year, I read a newspaper report about how the Young Liberals wanted to reintroduce the concept of fault into divorce. I even recall, for instance, the member for Bass supporting the concept. The Weekend Australian on 21 January reported the member for Bass saying:

There are too many divorces in Australia and there’s a role for government to do more ...

I tend to agree that there are too many divorces in Australia, but I stop short of believing that the government has a role to play in trying to stop divorce by making it more difficult for parties to a relationship to separate. Harking back to some romantic notions of times past is not
an adequate way of dealing with a contemporary issue of relationships. Late last year, it was reported that the number of divorces was down. Marriage is a significant commitment between two people, and it ought not to be entered into lightly, but, by the same token, divorce is something that people do not enter into lightly, and I wonder about the merits of introducing a law that requires couples to go through minimum periods of dispute resolution before they can proceed to the courts.

The obligations that are placed on parents under this plan are particularly bureaucratic. The most interesting requirement of this process is that the family relationship dispute practitioner is to determine whether or not, in the opinion of the practitioner, both parties have made a genuine effort to resolve a dispute. Of course, this is fine if the practitioner decides that you have made a genuine effort to resolve a dispute. That being the case, your application for divorce will then proceed to the courts. But there has been little or no effort to define what a ‘genuine’ attempt would comprise.

At the moment, we do not even know the level of qualification of the practitioners making this assessment, their accreditation or, quite frankly, anything associated with that, other than that they will be required to make a decision about whether you have participated and made a genuine attempt to resolve a dispute.

Once a practitioner has come to the conclusion that you have not made a genuine attempt to resolve a dispute, there does not seem to be any review possible under the proposed act. You simply do not get a second shot at it. Your papers are simply certified by the practitioner to the effect that you failed to make an adequate attempt to resolve the dispute.

I am also concerned about the ability for the government to actually provide these services and about the government’s control over the quality of these services. As I said, we do not know at this stage how the practitioners are to be appointed. We do not know their qualifications or their level of accreditation, other than that they are referred to in the proposed legislation.

As usual with this government, it is a case of introducing the laws now, getting them through parliament, using regulation to actually make them work and then ironing out any other details in due course. I might remind the chamber that we are still waiting for the detail of the government’s industrial relations laws to be announced. One wonders how long we are going to have to wait for the details of the operation of the compulsory dispute process that is outlined in this bill.

Members opposite can rest assured that I will be waiting to see the outcome of this process, especially when it comes to the family relationship centre which is going to be located in Campbelltown. I support Labor’s amendment, which would bring some certainty to this process. I support Labor’s amendment, which would guarantee free consulting so that, given the compulsory nature of the family dispute resolution process, it actually does meet the government’s promise that it will be made available and it will be free. I also strongly support the part of Labor’s amendment demanding that there be, before this process becomes compulsory, accreditation and quality standards for family relationship centres and the practitioners that work within them.

I also support the effort to change the certificate reflecting attendance or non-attendance, allowing the court to make the final judgment and draw any inference from the attendance
record. As it is at the moment, all that needs to be certified is whether you have made an effort to resolve the dispute, not whether a party has decided to attend or not attend. Those are issues that, quite frankly, ought to be left to the court. There should not be a punitive arrangement around whether you attended the counselling session or not. It should be there to help people resolve issues. In terms of making any implication or extracting an implication from non-attendance, that should rightly be left with the judges at the time of entering into a judicial process if the relationship breaks down to that extent. I believe that this should continue to be the case. There should be the possibility of frank and full rulings made by the court which should not be compromised by subjective judgments by one practitioner whose qualifications and accreditation levels, as I said, at this stage are simply unknown.

The bill also proposes a change in the nature of parenting plans. Despite the fact that parenting plans are currently unenforceable, this bill moves to increase the role that they can play. The proposition that the court considers the most recent parenting plan when making a parenting order and that, by default, parenting orders can be varied by a subsequent parenting plan automatically raises their importance, despite the fact that there is no process for scrutiny or registration of parenting plans and no requirement to obtain legal advice. These plans will act to affect determined legal outcomes. Therefore, I would submit that it is important that there be a requirement or at least an availability for people to take external advice in relation to these issues. While the government has at least conceded that the plans should be signed and dated, it continues to refuse the recommendation that there should be a seven-day cooling-off period. The fact that the government refuses to incorporate this cooling-off period means that the risk remains that the plans could be developed and signed in private and under duress with no external advice.

As I noted earlier, a parenting plan can vary the terms of a parenting order and, given this new and increasing status, there is a real risk that without any quality control a forced parenting plan could override a decision of the court, potentially acting against the best interest of the child. It is for this reason that I support the move to include a seven-day cooling-off period to the plan being given full status.

I am pleased that a bill that sets out some necessary changes to our approach to family breakdown is before this House. Marriage and family breakdown are never easy issues to deal with. No matter what the content of any legislation being proposed, there will always be at least one group who feel they have not been adequately treated in the process. By supporting Labor’s reasonable amendment, I think we will find that most groups will at least consider that the child will be adequately covered under this process.

It is not a fair or reasonable proposition for the government to regulate the way in which children are raised, nor is it fair or reasonable to presume that a one-size-fits-all approach to dealing with the issues surrounding family breakdown can be developed. Families, like the individuals who comprise them, are reasonably unique in character. In modern society, families have it tough enough in dealing with day-to-day issues without needing to be told how they should operate. There is no doubt there is a need for changes to improve law surrounding areas of people’s lives, and I consider this bill in the main to be a fair approach to changing the law. It has been developed after considerable consultation with many interested parties.

To that extent, I support this bill because it encourages parents to take more responsibility for their children. I support the bill because it proposes mechanisms that provide the capacity...
to take these issues out of the adversarial environment of the courts and away from the legal system. I do not think that these mechanisms are completely perfect in their current form and that is why I support Labor’s amendment, but I welcome the fact that promoting non court based dispute resolution may better afford the opportunity for parents in dispute to reflect on the fact that the use of the court may be making their children the forgotten victims in these sad exercises.

Children should and always must be the priority when it comes to a family breakdown. There can be no excuse for anyone who is involved not to have the child at the front of their minds whenever they are considering this action. I believe the amendment Labor has proposed acts to strengthen what is in principle a sound set of improvements to the law. I encourage all members to support this amendment to improve this bill, to finetune it, to make sure cooperation is the central tenet of family law and to stop people feeling they are wasting money in courts and to start them investing their money in their children’s future.

Dr JENSEN (Tangney) (5.33 pm)—The issue of family breakdown and the involvement of children in those family breakdowns is a very sad affair. It is an issue I brought up in my first speech in October 2004. I recall relating a case where a custodial parent in Sydney had not allowed the child on an aeroplane to meet the non-custodial parent in Perth, despite agreement that that was to take place. In fact, when the non-custodial parent called the custodial parent, the reaction was: ‘Well, I did not want that to happen.’ Clearly, this is totally inadequate.

I have heard so many stories in my electorate of Tangney that are really tragic. I have had numerous non-custodial parents come to me. They speak about their lack of involvement in their child’s upbringing, the fact that they have no part in the decision making about what school they go to, when they see their children and the day-to-day activities of their children. Not only is this not in the non-custodial parent’s best interests but, more importantly, it is not in the child’s best interests. The child has every right to have full access to both parents—apart from, obviously, cases where there is documented violence or suspected violence.

I recall that in his maiden speech the member for Wakefield correctly asserted that it is all very well having a safety net at the bottom of a cliff in order to deal with the results of family breakdown but we need a fence at the top of the cliff to actually stop the family breakdown in the first place. I fully agree with his sentiments. I think that these are critical issues that need to be faced in our society. However, the reality is that there are always going to be family breakdowns. As much as we may not like it, many of these will not be amiable breakdowns. There will be a lot of resentment and, as such, often the children will be used as weapons. In my view, this legislation, the Family Law Amendment (Shared Parental Responsibility) Bill 2005 goes a very long way to making the situation fair, to try to take some of the heat out of these breakdowns as far as the children are concerned.

I will turn to the key changes in the shared parenting bill. I like to emphasise the name of the bill—shared parenting—because I think that shared parenting and involvement in children’s lives is so important. The first key change is to introduce a new presumption of equal shared parental responsibility. This is an absolutely critical facet. Regardless of what sort of custodial arrangements have been arrived at, the fact is that both parents are entitled to have a say and a role in making decisions that affect the long-term interests of their children, such as the child going to school, and health care and so on.
The second component of this bill requires that the court consider whether a child spending equal time with both parents is reasonably practicable. This is perfectly reasonable. Obviously, in some circumstances this is not practicable. In some circumstances the parents live geographically far apart. In those cases you still want to have maximum shared parenting responsibility, but it is not practical to have completely equal time spent with the child. However, if, as I said, the court deems that it is not appropriate to have equal shared parenting time, the court must consider that the time that then is allocated to the non-custodial parent is substantial and significant. In other words, it should not be the case that the custodial parent flicks the child to the non-custodial parent for the odd weekend and maybe school holidays. There has to be day-to-day routine wrapped up in this. Let us face it: holiday times are not the way that you live normally day to day. As such, a complete relationship between the child and the parents does not develop in those circumstances. You need to have that day-to-day routine.

The third point is that the legislation makes it the right of the child—and this is so critical—to know their parents and to be protected from harm. These clearly are primary factors in deciding the best interests of the child. The child has this right to know. The parents may bicker and may hate each other after the break-up, but in most cases it is not that one parent is a terrible person and the other is a good person. It is just that the parents have not been able to make things work and therefore they have conflict between them. But the child should be entitled to have a good relationship with both parents.

This bill will also require parents to attend family dispute resolution and make a genuine effort to resolve their dispute before taking the matter to court. All too often, you have the feeling in these break-ups that there is a reasonable possibility of getting some reasonable compromise but, as soon as it goes to court and, particularly, the lawyers get hold of it, it becomes adversarial—and this is not what we want in this regard. It is far better to try to have a cooperative system where the access to the child and, more importantly, the child’s access to the parent is decided amicably. Obviously, this requirement does not apply where there is a history of violence or abuse.

This bill will also strengthen the existing enforcement regimes by giving courts a wider range of powers in terms of custodial parents not allowing non-custodial parents access. All too often we hear about situations where custodial parents do not allow non-custodial parents access to the children and vice versa and, essentially, nothing is done about it. That is just time that has been lost. That is precious time that the child could be spending with a non-custodial parent that is gone, and it is not made up. This bill will allow the courts to make orders to insist on make-up time if the access provisions are not adhered to. This will adequately deal with people who breach parenting orders.

This bill will also require that the court take into account parents who fail to fulfil their major responsibilities. For example, it is not acceptable that a parent who should be paying child support is not paying child support and there are no punitive measures in place in terms of access or other provisions. Things like non-custodial parents not paying child support or not turning up to pick the child up when the custody allows them to do so are unacceptable, so the bill will allow the court to then change the provisions.

The bill will also amend the definition of family violence to make it clear that an apprehension of violence must be reasonable. Too often we have heard—and, I am sure, everyone who works in an electoral office has heard—of cases where this fear of violence is thrown in as a
joker that trumps everything else in a custodial dispute. This bill also provides for a less adversarial approach in all child related proceedings. This is critical. As I said, too often these things become adversarial, where normally there would be some hope of having an amicable agreement.

The bill will also better recognise the interests of the child in spending time with grandparents and other relatives. Once again, I am sure that everyone here has heard of cases where grandparents come into electoral offices and say: ‘It’s terrible. I never get to see my grandchildren. My son or daughter—the non-custodial parent—occasionally gets custody, but it’s so rare that we never get to see them.’ This is not really acceptable either, because families are more than just nuclear families—they are more than just a mother and children or a father and children. There is a broader context to this that we need to consider. Given all of this, I really do think that this bill goes a very long way to addressing the problems that all of us have seen in terms of disputes where the children are significantly disadvantaged. As such, I commend this bill to the House.

Mr GIBBONS (Bendigo) (5.45 pm)—I welcome the opportunity to participate in this debate on the Family Law Amendment (Shared Parental Responsibility) Bill 2005. Labor have stated that we support the concept of shared parenting because we believe the needs of children are best served by both parents staying in contact with their children after separation. There have been significant changes in the numbers of separated fathers who take an active part in caring for their children and it is appropriate that the law recognises that patterns of parenting are changing whilst still acknowledging that mothers are still providing the majority of care for children in the community.

This bill incorporates measures that attempt to simplify court processes involving children and to make them less adversarial by encouraging parents to try to resolve differences where possible without the need for the intervention of courts. As my colleague the member for Gellibrand has said, Labor supports changes that will promote family dispute resolution outside the courtroom. 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 relationships services. It includes $200 million towards increased funding of services under the existing Family Relationships Services Program. Labor enthusiastically welcomed this new money when it was announced. Indeed, we have been arguing for a number of years that these services have been sorely neglected by the Howard government.

Labor have introduced an amendment proposing a series of measures we believe will strengthen this bill. They are:

1. 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;

2. 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;
(3) 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;

(4) 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;

(5) notes that 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;

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

(7) 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;

(8) 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”.

MAIN COMMITTEE
As I said before, we 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, if you like, and an entry point for advice, referral, counselling and mediation services. However, it is disappointing that Bendigo, one of the largest regional centres in Victoria, has not gained one of the family relationship centres. Last year Attorney-General Philip Ruddock announced the location of the 65 FRCs, and again Bendigo was overlooked while Ballarat and Shepparton gained the service.

While some of the areas that gained a centre were in Labor electorates, the majority of centres went to coalition electorates with far less demand for the services than Bendigo provides. The Prime Minister’s electorate of Bennelong, for example, and health minister Abbott’s electorate of Warringah are to receive the service, both with demand levels less than half Bendigo’s potential demand. The services in both Bennelong and Warringah will be located approximately 15 minutes apart, while Bendigo families using the service will have to travel to Ballarat or Shepparton, up to an hour and a half or an hour and three quarters, to access the service.

It is worth noting some of the statistics about the likely clientele for this particular service. For example, in Bendigo one-parent families total 4,215; in Bennelong there are just 2,364; and in Warringah there are 2,176. The figures for total number of families in Bendigo are 16,147; in Bennelong, 15,978; and in Warringah, 14,154. This is where it gets interesting. The figures for family tax benefit category A recipients are: Bendigo, 13,682; Bennelong, 7,654; and Warringah, 5,427. For family tax benefit part B recipients: Bendigo, 10,223; Bennelong, 6,056; and Warringah, 4,497. For parenting payment single recipients: Bendigo, 3,744; Bennelong, just 1,118; and Warringah, 1,073. For single parent payment partnered recipients: Bendigo, 1,408; Bennelong, 720; and Warringah, 248. For child support eligible children recipients: Bendigo, 6,957; Bennelong, just 2,555; and Warringah, 3,914. For child support payers: Bendigo, 4,752 recipients; Bennelong, 1,494; and Warringah, 2,184. For child support payees: Bendigo has 4,752 recipients; Bennelong has 1,494; and Warringah has 2,184.

I certainly do not begrudge those electorates gaining these centres, because obviously there is a need, but clearly Bendigo has a far greater need. Given that the Commonwealth is considering making it compulsory to attend some form of mediation before staring court proceedings to resolve a parenting dispute, it is vital that the Howard government reconsider its decision not to provide this service in Bendigo. A family relationship centre located at Bendigo Salvation Army, for example, would complement a range of related services already being provided very successfully by the Salvos. The minister and the department chose the locations and did not invite submissions or expressions of interest from any areas, including those that most need the service. The minister also relied on information from a Liberal-National coalition backbench committee and it is interesting that seven out of eight members of that committee gained a service in their electorates. I will continue to push hard for this important service to be located in Bendigo. As I said before, the Salvation Army Bendigo’s Fairground Children’s Contact Service has also expressed concern at the Attorney-General’s decision not to grant Bendigo a family relationship centre.

The discussion paper *A new approach to the family law system* indicated that a key relationship exists between children’s contact services and family relationship centres. Of the 44 children’s contact services sites listed on the FaCS website, only three will not have a family
relationship centre in close proximity. All three of them are in rural and remote Australia. They are Bendigo, Alice Springs and Orange. Bendigo is the only Victorian children’s contact service that will not be co-located with a family relationship centre.

The Loddon region population of 200,000 is crying out for a centre. The nearest family relationship centre will be at Ballarat, Shepparton or Melbourne, in the city. There is extremely inadequate public transport from Bendigo to either Ballarat or Shepparton, and a private car trip is approximately 1½ hours one way. These are extreme costs to families, of time and money, particularly because families will be often separated, thereby doubling the overall costs as each parent travels separately. It will be easier for Bendigo families to access the Melbourne city family relationship centre.

The Family relationship centres information paper says that FRCs will have an outreach component and brokering moneys for families to access FRC services in other agencies. If Bendigo people are not to travel, at significant cost, to an FRC, then these models of how an FRC can come to them beg the question as to why an FRC did not get nominated for Bendigo in the first place. It is hard to expect that either Ballarat or Shepparton will spend large amounts of their budgets providing what will need to be full-time outreach services to Bendigo or brokerage of Bendigo services.

Bendigo has no funding under the family relationship services program for men and family relationship services and family violence services. Ballarat has these services already. We are not receiving an FRC. What are the implications for attracting future family relationship services to Bendigo? It would seem unlikely, for example, that one of the new 15 contact orders pilot ‘parents forever’ program initiatives would come to Bendigo without an associated family relationship centre.

Fairground is concerned about the implications for Bendigo separating families. With FRC access denied to them, it is not hard to predict that many will opt for self-management without attending an FRC or the Family Court, without any opportunity to resolve the issues. Also, if a father, for example, cannot get the mother of the children to attend an FRC, a court application places him in the same situation as he currently faces.

Fairground was looking forward to receiving families from an FRC in a prepared, well-managed and child-focused manner. The implications are that now it will see a significant number of families being referred in the same way as at present, through an inadequate Family Court pathway. Consequently, Fairground may have to absorb this extra demand, working in the style of a contact orders program without any of the extra funding. Already it has been expected to absorb the extra costs of penalty rate increases for weekend staff under the SACS Victoria 2000 award, with no prospect of additional funding. Ultimately children may be the big losers from these decisions, as more of them remain stuck in the battleground of conflictual separations. I urge the minister and the government to reconsider placing an FRC in Bendigo, where there is a clear demand for the service.

Mrs GASH (Gilmore) (5.58 pm)—Member for Bendigo, I am amazed at your comments. Never once do you say anything is good. These changes have come about after 10 years. What is the Labor Party’s proposal on the Family Law Amendment (Shared Parental Responsibility) Bill 2005? Come on; let us be fair about this. You know that these changes are long overdue.

Mr Gibbons—I said we support them.
Mrs GASH—Yes, but you always have to rubbish something. Divorce has been cited as one of the more significant life events that contribute to stress related injury. It is up there with the death of a loved one and other similar personal life tragedies. Its impact is not restricted to the two parties concerned. The parents at least may have the capacity to move on in most cases and to adjust. Their children, on the other hand, are not as fortunate. Nor are the grandparents, who suffer just as much and who are the forgotten ones in cases of divorced couples. Children in their formative years bear the scars for a lifetime. Without having the ability to adjust in a mature and responsible way, they often pass that legacy on to their own children. It is unrealistic to expect that the fallout from such an event can be contained and that all concerned can expect to behave with civility and be accepting of the consequences. Life is not like that, and the least able to weather the storm are the children.

Since being elected to represent the electorate of Gilmore, I have seen first-hand some of the worst of these consequences—the anger, the vindictiveness, the spite and the hatred that surrounds many of these cases. When the divorce comes through, that is often not the end but rather the beginning of a whole new dimension, particularly for the children. One parent virtually disappears out of their home, and the relationship they had with both parents is turned on its head. It is very much like a death, and children become swallowed up in the grieving process. Sadly, every now and then, as has been the case in Gilmore, one parent kills the family’s children and takes their own life to punish the surviving partner. Such are the extremes of emotion that cannot be confronted rationally as rationality flies out the window.

We as a government cannot prevent divorces. Neither can we protect children entirely from the consequences. But we can try to minimise the harm that is sure to flow from divorce. I am not an advocate of preserving an unhappy marriage, for that too brings with it numerous negative consequences. I would not want to see anyone chained to a relationship that causes only pain and grief. Being a divorcee myself, I experienced the grief and the feeling of pain for my children as they processed their reactions. They are still, after 30 years, coming to terms with it, as are their children—my grandchildren. So, yes, I certainly appreciate the situation.

A totally happily marriage for all time might be an illusory creature, and couples will experience friction in their relationship from time to time. Since the advent of the no fault family law legislation in 1975, it has been argued that divorce has been made so much easier to obtain and that the legislation gives people an easy option rather than making them work to repair the rift in their relationship. In fact, there have been some schools of thought proposing that we should be looking at reinstating fault based divorce proceedings. I am in two minds about that, but I suppose there is a cogent case for both approaches. I am more concerned with the victims, who would have no choice in the matter regardless of the approach, were parents to resign themselves to their differences and try to make it work.

This bill acknowledges that path and attempts to deal with it. Children have a remarkable resilience to such events and can, within the right environment, adjust rationally and reasonably over time. And that is the key: it being the right environment. Key research findings indicate that it is not so much the divorce that causes the problems so much as the almost inevitable conflict that comes with it. It is perhaps useful to reiterate a statement from the Department of Family and Community Services website addressed to this proposition. It says:

- There is a need for mechanisms for children to have a voice in relation to their experience of parental conflict, separation and divorce.
High levels of marital conflict are linked to a whole range of adjustment problems in children, for example, depression and acting out behaviours ...

Marital conflict is a better predictor of adjustment for children than divorce itself.

The quality of the parenting is diminished in a high conflict relationship.

Various aspects of a divorce increase adjustment problems – financial insecurity, lack of parenting, decline in standards of living.

When fathers engage in active parenting there is better adjustment for children during divorce and separation (subject to issues of violence and abuse).

Intervention at an earlier stage in the separation process is very beneficial – for example, divorce/parent education programs for helping parents to focus on children’s needs.

Children can show remarkable resilience in adapting to changed households and new residential arrangements ...

Children’s groups could be a useful means of children getting peer support.

So, the emphasis is on prevention, and the thread of this bill reflects those findings.

When the bill was promulgated, the Shared Parenting Council of Australia said:

Through its reform agenda and legislation introduced today, we have witnessed this Government do more to support the rights of children to the love and nurture of their parents than any other Australian Government in any other period in living memory. The legislation clearly protects children from violence and abuse with a range of new measures.

That is quite an endorsement from a group that knows what it is all about. Shared responsibility is the crux of responsible parenting. When you have brought a child into this world, they are the equal responsibility of the couple that created them. Divorce is not a vehicle for relieving one or both parents from that obligation. Unfortunately, not all parents are responsible, so it behoves the government to reinforce that obligation through law. That is why I was so pleased to be able to announce that a family relationship centre is to be built in Nowra where, hopefully, some of these issues can be resolved before they go to a court of law.

This legislation imposes responsibilities on both parents, married or otherwise, that really just reflect their moral obligations. It says that individuals need to take ownership of their responsibilities and the consequences of their actions. Until that child legally becomes an adult, both parents will continue to have a role to play and to share the burden of that role. It has been far too easy for one or the other to simply walk away. How many have rationalised their abrogation of that responsibility by saying, ‘Well, the kids are not with me, so why should I contribute if I do not get something out of it?’ That is just mercenary, and it is selfish. To them I say: why, then, should someone else pick up the tab for you? As a taxpayer, why should I have to subsidise your irresponsibility? Take ownership of the problem and, if you do not like the consequences, work like hell to make sure you do not have to suffer them. That is why I welcome these provisions compelling intending divorcees to seek counselling beforehand, to get unbiased information that possibly they may not have and to deal with their anger and frustration without inflicting the pain on innocent bystanders.

The provisions in this bill impose obligations to do certain things, including a presumption of shared responsibility, although there will be instances where that will not be realistic due to the personal failings of one or both of the parties. The court will be able to take this into consideration in the course of their deliberations. It will be a right of the child to know their par-
ents and to be protected from harm. The provisions in this bill compel parents to make a genuine effort at prevention, to attempt to resolve their differences before opting for the courts as a first preference. We need to ensure that some responsible thought processes are undertaken rather than indulging in the luxury of selfish considerations.

Not all parents may have the intellectual or emotional capacity to consider such matters, so having a third party made available will go a long way in addressing some of the problems associated with immature personalities. This includes the ability to hand the care of the children over to the grandparents. I have seen numerous occasions of this situation, where the grandparent has had to take over the role of the parent of their children’s children. It is a sad manifestation of today’s society, but that is another issue again. There is no denying that the need for custodial grandparents could be largely avoided if the parents were more responsible.

The bill will enhance provisions to deal with people who continue to resist exercising their obligations. This is zeroing in on recalcitrants in the most effective means possible. I particularly welcome the provision which will stop the systemic abuse of AVOs, apprehended violence orders. I have seen so many innocent parents, usually the male, victimised by the other parent simply out of spite. They have been put in the position where they cannot afford legal advice and they simply have to cop it. This is manifestly unfair, as indeed are many provisions of the existing legislation.

It is time for a change, because the children have been treated like the common goods and chattels of the relationship. They are so much more than that and worthy of respect. This bill will not solve all the problems in modern-day relationships in our society, but it does go a long way in addressing some of the travesties that have been passed off as legislative resolutions. My colleague the member for Hume has been an ardent advocate of many who have felt the brunt of these failings. The no-fault legislation did not mean no responsibility, but it did contribute to the erosion of parental values—of that I have no doubt. I welcome this legislation because it will mean that I will see less and less of cases where despair is the currency of an individual’s life.

In closing, I do have one criticism, and that still has not been addressed but definitely needs to be. It is the question of access. It was always my understanding that if a court gives access to the non-custodial parent, usually the father, then it should be upheld.

A division having been called in the House of Representatives—

Sitting suspended from 6.09 pm to 6.21 pm

Mrs GASH—Far too many cases have I seen where such rulings have been abused and ignored simply to punish the other partner. I have seen grown men cry because the mother has denied lawful access to the father for reasons that are no more than a form of retaliation and petty vindictiveness. Everyone deserves a happy life, and none of us was put on the face of this earth to be used as a pawn for another’s selfish intent.

Gilmore has over 8,000 recipients with the Child Support Agency. Whilst this bill does not address the latest announcements of proposed changes, I would like to place on record that these changes have been made with 10 years of my involvement in discussions over child support issues and family relationship issues. These changes are long overdue. I encourage anyone who is still not sure to either contact their local member or make sure that they contact the Child Support Agency.
Mr TANNER (Melbourne) (6.22 pm)—Labor support the Family Law Amendment (Shared Parental Responsibility) Bill 2005, although we do have a number of criticisms and concerns, some of which I will refer to in my contribution. On a broader front, I think it is worth noting that for a very long time the parliament and the various parties in the parliament have neglected these extremely important areas of child support and child access, family law and all of the associated issues. It has been a very positive thing, over the past couple of years, to see a substantial number of parliamentarians from both the major parties make major contributions in public debate on these issues. I think the report Every picture tells a story is probably the best and most important report by a parliamentary committee in the time that I have been in the parliament.

Although the opposition does not entirely agree with the way the government has gone about pursuing its reform agenda in this area, broadly I think it is fair to say that much of what the government is proposing to do does have the opposition’s support, and there is no question that things are heading in the right direction generally. There are a variety of areas where we do have differences of opinion on particular matters, but nonetheless it is long overdue that the parliament deals with the very serious issues that are attached to the whole area of family law, child support and associated themes.

I can address these questions with some degree of personal experience, because for the past six years or so I have been a non-custodial parent with two children. I am paying child support for those two children. Fortunately, I have been one of those people who have had one of the less traumatic experiences with the system, the issues of access and all of the arrangements in the legal process was that the state effectively seemed to be saying to me, ‘You have a right to access your children and you have an obligation to pay a certain sum of money for their upbringing,’ but it did not send any messages to me that I had a responsibility to be in their lives.

The implicit messages that the system, as it has evolved, seemed to be sending to me and to all other people in my situation were that as long as I stumped up with the money the state did not really care if I never saw my kids again. I think this is a complete reversal of the way the system should operate, because to me the question of access to my children is not a matter of right, it is a matter of responsibility. I regard myself as having a responsibility to stay in my children’s lives, to provide not just money for their upkeep but emotional nurturing, advice, guidance and all of the things that a good father should provide. The mere fact that they no longer live under the same roof as me and are in a separate household is no reason why I
should cease to be a good father to them. The system as it has evolved really does not send any serious signal of that kind.

One of the horrifying statistics that I uncovered a couple of years ago when doing a bit more research into this area is that there are roughly 250,000 children in Australia who live apart from one of their parents—overwhelmingly the father—and who either never see or only very intermittently see that parent. In some cases that is probably a good thing, but in most cases it is not. In most cases the fact that the state has no inbuilt signals in the system putting any kind of pressure or motivation on the part of the non-custodial parent to contribute emotionally to their children’s upbringing has been a major flaw in the system. The fact that this legislation seeks to introduce a notion of shared parental responsibility is a very significant step forward. It is not an easy thing for legislation of any kind to make good fathers out of bad fathers. Obviously there will be some cases where it is good for everybody for a father to have nothing to do with his children, but that will generally be in a relatively small minority of cases. Anything we can do to put greater pressure on non-custodial parents—mostly fathers—to put more effort into and make a greater contribution to their children’s lives is a good thing.

The second theme associated with this that I think is worthy of comment is the presumption of shared contribution or shared time. I think this is a positive step, provided that it is applied sensitively and intelligently. There is, of course, a codicil to this, and that is that in many circumstances shared time, particularly equally shared time, will simply be impractical. There is quite a bit of evidence to suggest that it is not a desirable thing for children to live week on week off with different parents. That is a bit destabilising for them, particularly in very sensitive times of their lives. Nonetheless, something that imposes the presumption that there will be some time spent with each parent I think is a good thing. The advent of parenting plans is a positive development. Labor has been critical of some of the aspects of the framework that have been put forward by the government with regard to parenting plans but nonetheless the broad concept, as recommended by the Every picture tells a story report, is a very good development and certainly has my support.

The family relationship centres as a general proposition are a good innovation. Time will tell how effectively they work. We do have some reservations about the quality of the advice that will be provided, about the requirements with respect to mediation and various other matters and about whether they will be equipped to deal sensitively and appropriately with things like threats of violence. There are inevitably some very difficult situations in this area. Time will tell how effective they are. Nonetheless there is cause for supporting the family relationship centres. I think that is a significant step forward. Hopefully they will work as intended and make a significant contribution to reducing conflict and litigation and to improving outcomes for children.

A couple of things that are worrying about the legislation, which Labor has referred to in its second reading amendment and which the shadow Attorney-General has referred to, are the provisions with respect to violence. There are a couple in particular that I find disturbing. A change of definition of apprehended violence to make it a more objectively based test may at one level appear logical because, by definition, we do not wish to see decisions being made based on a fear of violence that is plainly, obviously and completely unfounded. But I do not believe that has been happening.
A division having been called in the House of Representatives—

Sitting suspended from 6.31 pm to 6.43 pm

Mr TANNER—Before the suspension, I was pointing out that there are a couple of aspects of the legislation which Labor does oppose and has substantial concerns about, particularly relating to the issue of violence. We are concerned about the change of the definition to insert a degree of an objective test into the question of apprehended violence, which we believe will potentially disadvantage a number of women who genuinely fear violence and have good cause to fear it—albeit a cause that is very difficult to prove.

We are also concerned about the insertion of a provision imposing mandatory cost orders for those who are found to have made accusations of violence that are without foundation. This is for a couple of reasons. Firstly, little evidence has been adduced to demonstrate that this is a major problem. We do hear anecdotal stories of individuals allegedly making false accusations of violence or using such accusations as leverage or bargaining ploys in family disputes. But little evidence has been put forward to suggest that there is a major problem here that requires a significant change in the law to deal with.

In my view, it would have been more appropriate to provide discretion to the presiding judge to make an order with respect to costs in these circumstances, based on a genuine finding that a false and vexatious claim of violence had actually been made. And it is conceivable that the proposed change to the law could even have a contradictory effect, in that it may become something of a disincentive for a court to find that an accusation of violence is without foundation if the court knows that, in so doing, it will be automatically imposing a heavy cost burden on the person making that claim. In our view it would have been infinitely preferable for discretion to have been provided to the court to deal with this matter. To make it mandatory takes it one step too far and risks creating genuine injustice.

The final point I wish to deal with relates to the question of enforcement. As probably all members have, I have had plenty of experience dealing with individuals in the family law and child support systems, as well as my own experiences—which fortunately have not involved any serious disputes. I have had plenty of experience dealing with constituents, male and female—people concerned about problems with access to children and people concerned about problems with receiving legitimate child support payments.

I have even dealt with a constituent, a non-custodial parent, who claimed that his ex-wife was earning over $100,000 a year, because she was in a highly paid professional job, but had disguised these earnings and reported only $10,000 a year in order to ensure that she qualified for child support. Of course, I have no means of knowing the truth of this, but it is an indication of the enormous variety of disputes that emerge in the system.

In my experience, a very high proportion of these problems lead back to a core weakness in the system: inadequate enforcement mechanisms. For most people who feel aggrieved—who feel that an access order or an access agreement has not been complied with or that child support obligations are not being complied with—the ability to obtain justice and to see justice enforced is very costly, very time-consuming, very difficult and, for some, in effect, impossible. In my view, this is the biggest weakness with the system and it is a very difficult weakness to deal with because you are dealing with issues that are difficult to enforce.
I was a supporter of the family tribunal proposal that emerged from the *Every picture tells a story* report, because I felt that it raised some prospect of dealing with this problem—that, if it were possible to get a different kind of legal structure that was less formal, less costly, more speedy and that could deal with, at the very least, the lower level disputes that are widespread in this area, that would be a big step forward. People often find themselves in difficult situations, where access to children or to child support payments are being used as weapons in ongoing disputes but where there is no major dispute—for instance, about violence or child abuse—involves. In these cases, the idea of having access to a much cheaper, simpler and quicker means of dispute resolution enforcement has, I think, a lot going for it.

The government has thus far chosen not to go down this route. It is fair to say that there are different views within our ranks on this issue and I have no doubt that there are different views within the government’s ranks on this issue. I note that it has announced that, in the forthcoming child support legislation, there will be mechanisms for appeal to the social security appeals tribunal, which is an interesting step that may assist in this regard. I do not know enough about the detail as yet to be able to understand to what extent this will provide some kind of solution to the problem of enforcement, but I would urge the government, in all good faith, to continue to put as much emphasis as possible on tackling that problem because, in my experience, it is at the heart of many of the most distressing cases that we all deal with. People’s ability to get a fair dinkum umpire’s decision and to ensure that it sticks—and not have to pay $50,000 or $100,000 to get it—is very limited. To me that is at the heart of the problem.

People sometimes—perhaps with some justification—complain about Family Court decisions and how they came about. But, for every one of those, I would venture to suggest that there are a dozen where the real complaint is the inability to get a resolution or arbitration of a dispute which is straightforward, simple and enforceable. In continuing the process of developing better ways of doing these things, one crucial focus has to be on legal processes and mechanisms for parties to pursue and resolve disputes and for outcomes to be enforced. If we can improve that, I think we will make the lives of a lot of people significantly better and we will reduce the extent to which conflict, cost and emotional trauma dominate the system in family law and child support.

In conclusion, I reiterate that I think the process that has occurred with both government and opposition on these issues over the past couple of years has been commendable. We do not agree with everything the government is putting forward. There are inevitably a variety of views within both major parties on these issues, because they are very vexed and very difficult issues and inevitably people carry with them their own experiences, their own biases and their own emphases. This is one of the most difficult and traumatic areas of law making, which has long been neglected by both sides, frankly—with one or two honourable exceptions such as the member for Chifley. I think it is very good that, finally, we are addressing this. The steps that are being taken are positive. Notwithstanding some of the criticisms and differences that I and other Labor members have on certain issues, I think that, overall, we are making serious progress, and I hope that we can continue to make further progress.

Mr SCHULTZ (Hume) (6.52 pm)—I welcome the opportunity to speak in support of the Family Law Amendment (Shared Parental Responsibility) Bill 2005. First of all, I must thank the Attorney-General for his commitment in pursuing these reforms, which will most certainly
be the most significant changes to our family law system in 30 years. They are startling facts that more than one million children in Australia have one parent living elsewhere and that one in four children from separated families see their non-resident parent only once a year or not at all. This is a situation which has developed in Australia over many years, unchecked by governments of the day. Family law is one of those difficult issues which has gone unaddressed for far too long—until the Howard government had the courage to tackle it head-on.

These reforms represent a generational change in family law and aim to bring about a cultural shift in how family separation is managed—away from litigation and towards cooperative parenting. These changes are about what is best for the children. From a local member’s perspective I can confidently say that these reforms will touch the lives of an enormous number of people in an intimate and personal way, unlike any other legislation to come before this House in the Howard government’s very successful 10 years. I applaud the Attorney and all of those people who have been involved in preparing this bill.

After the research and consultation I have conducted during the past two years or more into the issue of child support, I am completely aware of the public’s desire for family law changes. And I do not say that lightly, as I have somewhere in the vicinity of 3½ thousand detailed cases on the issue. These reforms are, let me reaffirm, long overdue. I will read from just a handful of the emails I have received during the past week from ordinary Australians who are desperately awaiting the outcome of these reforms. During the past 12 months I have received thousands just like them. I quote:

I am writing to you on behalf of my situation on being a single father. I am only 21 years of age and bare the beautiful gift of a child that I don’t get to see, for I am clouded by laws preventing me from having a 50/50 relationship with my child. Inside me I am tearing up as I love my child as much as anyone loves their own. I haven’t seen my child since Christmas, and I still have the gifts that are hers that I never could give her.

Another one says:

I have recently separated. My ex allows me to see my 15-month daughter every Wednesday and every second weekend. Four nights a fortnight. I’ve have gone from caring for my daughter every morning and night to this. I am not a baby sitter. I am a great father and I want to have as much time as I can with Maiah, while being fair to her mother. This is a cruel and outdated system from the dark ages. Men now are so hands on with raising their children there must be changes made to keep it fair.

This is another one:

I am writing to express my concern at the consistent ignorance of the rights of children to spend equal periods with both mothers and fathers. I am a happy single father and I have been locked out of my son’s life by his mother and the courts. It is my son who is suffering, not me or any one else.

And the letters go on. I think that is the basis of the benefits of these changes. It is about the children and the rights of children to have access to their parents.

I applaud the fact that these reforms insert a presumption of equal shared parental responsibility, although there are of course some parents who choose not to be involved in their children’s life. This fundamental change will ensure that parents who do wish to be involved can be involved right from the outset. Under the amendments the court must consider when making its determination whether a child spending equal time with both parents is practical and in the best interests of that child. If it is not appropriate the court must consider substantial and significant time, including being involved in the child’s day-to-day routine, not just weekends.
or holidays. However, there are still parents out there, most of them fathers, who believe that this change does not go far enough. They believe that there should be a rebuttal presumption of equal parenting time and that the court should be compelled to assign both parents equal time with their child. Unfortunately, this is not always possible for a number of reasons.

One element of the reforms which I am certain will provide a great deal of relief and assistance to parents is the strengthening of the existing enforcement regime. Under the changes the courts will have a wider range of powers to deal with people who breach contact orders. For example, they will be able to impose cost orders, make-up time or compensation for those who are found to be in breach of the court orders. I am really happy that that has been part of the bill because I brought to the attention of the Attorney-General a number of significant cases which illustrated the point that I made about the Family Court unfortunately not carrying out its powers when court orders were made for people to have access to their children. I will read three examples of what I am talking about that came from people to me. They were all headed ‘Dear Mr Schultz’ of course. The first one says:

I was very happy to read the recent statement you made in regard to standing up for fathers everywhere. I have been involved in a very bitter family law matter over access to my children for almost 4 years now. I have to again go to court next week to ask the court to issue a warrant for the arrest of my ex-wife because she has gone missing with my children (who I have not seen for 12 months now).

What is really unfair about the system is that I am not eligible for any legal aid assistance and have to try and take on the court system alone, and have to continue to pay $300 per fortnight in child support—and yet don’t even know where my children are.

It is such a pity that more of the elected people aren’t prepared to take a stand on this matter, which is something that can’t be swept under the carpet any longer.

The second person says:

I am a divorced father who has spent in excess of $17,000 with lawyers and family courts, and despite repeated contact orders, I have not seen my kids in over 3 years.

I was not aware how much discrimination fathers faced in this country, until I got divorced. The house went to my wife, while I was left with little over $10,000. (I had to borrow the rest from my family for legal expenses, and I did not qualify for legal aid.)

I gave my wife the house because I thought it was the noble thing to do, and yet after giving most all of the $500,000 house, I was hit with an incredible amount of child support.

I live in a one-bedroom unit, I have lost all my life savings, and I have to pay a gratuitous amount of child support every week, that does not reflect what it costs to raise a child.

It seems that in divorce, one party wins everything, and one party loses everything.

The worst thing about it is that I have been honourable in my dealings, to the point of being a fool. I live in poverty in the hope that my kids will benefit, and yet, somehow, I have also lost even my most basic right to see my kids.

Finally, I am going to read almost the full text of the email from the third person because it contains a pretty compelling story about why this system needed to be changed and why it is essential that this bill passes through this House. It says:

Dear Sir

I am very pleased to see a politician stand up for the disenfranchised dads of Australia.

I will not bore you with all of the details of my story of anti-male bias in the Family Court (FC) and the deplorable way my ex-wife treated me after we separated due to her verbally and physically abusive
nature towards me. I will briefly say that when we separated she said that she would not stop me from seeing our son who was almost four years old at the time. However, as soon as she spoke to a lawyer she insisted on me agreeing to Property Settlement 80/20 in her favour. She also immediately stopped me from seeing or talking to our son despite having FC Orders to the contrary. I endured almost eight years of being allowed occasional Contact usually only when it suited her ... She would frequently de-liberately commence an argument with me when I was politely attempting to pick up our son for Contact and then she would have an excuse to slam the door in my face OR she would not be at home at Contact pick up time.

I took her to FC a few times for Contravention of Court Ordered Contact, but on every occasion the Magistrate/Registrar told her she was 'naughty' and to not do it again. Next time I attempted Contact she laughed at me saying that she can do what she likes as the FC do not punish mothers.

My current situation is most rare (for a father) as I was awarded Final Sole Residence of our son in March 2002 with the mother only allowed once-monthly Supervised Contact supervised by a FC Counsellor. This came about after Family Services had removed him from his mother under a Child Protection Order in March 2001 wherein Family Services immediately placed him with me. The mother subsequently was diagnosed as having a psychosis with paranoid delusions. I will not bore you with the details but suffice to say that the Child Rep and Family Services both fully supported me all the way through to the Final Hearing. In July 2002, the mother abducted him from Supervised Contact and the A.F.P. found them in Northern Territory and have returned him to me. Upon being found, the mother made yet another false allegation of physical abuse alleging that my new wife and I had abused him daily. The mother has not been charged or punished in any way for the abduction as the FC Judge persuaded me not to in the interests of the child. I am sure that if the boot was on the other foot, I would have received a jail sentence or at least a substantial fine for that offence.

The main injustices that I am trying to point out are:

1. That the FC do not punish Custodial Parents for non-compliance with Court Ordered Contact. A parent committing that offence for the first time should be given a very stern warning that any future non-compliance will be (not may be) punished by community service or a substantial fine (e.g. $1,000) and that should a further non-compliance occur the punishment will not (not may be) a reversal of Residence.

2. That the FC do not punish mothers who make false allegations or get AVO’s raised against their ex-husbands. The vast majority of mothers do so to disenfranchise the father from the child in a vindictive act of hatred without any concern for the child.

I always paid the CSA payments in full when I was the payer and she would often spend the money on herself.

I will not go any further, because the rest of the email is about the Child Support Agency. That gives an indication of the types of case studies in the considerable database that I have compiled. I know a great many fathers will be relieved, although no doubt still sceptical until they see this particular part implemented—that is, the part where anybody who breaches contact orders will find themselves in a situation where the court will impose a penalty.

Fathers who have been the victims of frivolous and unsubstantiated claims of violence and abuse are also pleased that the court will be empowered to impose costs against those who make false allegations of violence or abuse. Having read that particular article, I do know there is considerable abuse out there, both of a physical and of a sexual nature, by some fathers of their children or their step-children—and I do not condone it and neither do decent, thinking people here. I am talking about the majority of fathers, who are good people trying to get access to their children. I can tell you, from my substantial dealings with fathers, second
wives, sisters and mothers—and, indeed, former wives—that such vexatious claims are not uncommon. Indeed, that tactic is often used by angry partners to gain the upper hand in court proceedings. Take this father’s letter as an example:

I am writing this letter because my daughter needs your help. She is 3.9 years old. Her mother accused me of sexual and domestic violence ... and went to the police ... my daughter has not seen her father since then. Can you see how unfair our legal system is for my daughter? I can’t even imagine how she’s feeling.

Thank you for reading my letter and I really hope you can do something to change the situation so other boys and girls don’t have to suffer because of parents who are using the children for their own selfish reasons.

There is no doubt that, following relationship breakdowns, the delicate nature of family matters makes family law a complex and difficult issue. There is no doubt also that, given the serious deliberations associated with some of the issues I have raised, family law magistrates and judges have to take reasonable, calculated and thoughtful action. In many cases in the past, that action has not been taken. However, I am confident that this particular piece of legislation will address such matters.

As a government, we must support parents and encourage them to sit down and talk about their children’s needs and the family’s needs, before entering into the court system. For that reason, this legislation, I believe, is one of the better pieces of legislation to come through this parliament for quite some time. However, I stress that, if those discussions fail, it is the government’s responsibility to ensure that courts are able to make decisions based not on any particular gender bias issue but on the merits of each case, with a view to achieving an outcome that at the end of the day is in the best interests of the children. That is what we are talking about—those beautiful creatures that we need to nurture, protect and love all through their lives.

I am sure that no family law system will ever be perfect, as it is the nature of the beast, but I am confident that these reforms will provide relief and fairness for thousands of Australian children and their families. I thank the House for the opportunity to speak on this issue tonight. It is a very serious issue. It certainly is a very serious issue for all Australians, male and female. Nobody would argue the point that it is the child who needs to be looked after, just as nobody would argue the point that the child needs to have the love and nurturing of both parents so that they grow up in a well-balanced way that will serve them well as they go through life. I thank the chamber once again for allowing me this opportunity. I commend the bill not only to the House but also to my parliamentary colleagues on both sides of the parliament.

Mr PRICE (Chifley) (7.08 pm)—In responding to the honourable member for Hume, I thank him for recognising that we will be supporting the Family Law Amendment (Shared Parental Responsibility) Bill 2005. He made a contribution of many parts, one of which I want to address. He talked about the area of family law being difficult and complex, and I agree with him absolutely—100 per cent. But I have heard the argument—not that he advanced it—that, because the area is so difficult and complex, we should do nothing or not try to do anything. However, as individual members of parliament, we all have a responsibility in this area to make progress and to make improvements.

There have been two radical pieces of legislation. The first was passed 31 years ago: the original Family Law Act, which brought out no-fault divorce. I support it. I have to say, the
system has changed a lot from what was originally envisaged. The same goes for the Child Support Scheme. It is necessary change. But, in both instances, I believe sincerely that there has been a reluctance to try to come to grips with the complexity, the difficulty and the need for equity in both those acts.

I have had a unique opportunity. I served with the honourable member for Riverina, Kay Hull, on the inquiry that produced the report Every picture tells a story. I have no hesitation—and I have done it before—in commending her; the deputy chair, the honourable member for Fowler; and all the members who served on it from both sides. I particularly thank the member for Riverina for also recognising, in her contribution, the role of opposition members. I can say that all the members of that committee were very sincere about the job at hand and really tried to do their best. It is an aspect of this parliament that all too frequently the public are unaware and ignorant of.

As a member of that committee, I then had the privilege to be added onto the House of Representatives Legal and Constitutional Affairs Committee, which considered the first draft of this legislation. Again, I congratulate the members of that committee not only on their generosity and tolerance in accepting me as an additional member but also on the way that they genuinely tried to come to grips with the legislative changes. I think that they did a good job.

There are a couple of things I want to draw out. Let me say from the outset: I sincerely hope that this bill works and that all the expectations we have of the impact that this bill will have on men and women—and, in particular, on children—are realised. I have some reservations, I have to say, but it does not mean that I come here with ill will.

I did want to return to the report of the Legal and Constitutional Affairs Committee because there is one recommendation in that that has not been picked up by the government. It was a unique recommendation. It was that two parliamentary committees that I sincerely believe had earned their spurs should tackle the issue of family violence—that is, the Legal and Constitutional Affairs Committee and the House of Representatives Standing Committee on Family and Human Services—and tackle it from both ends of the spectrum. I know of no member in this place who can be happy about the violence perpetrated, in the majority of cases, upon women. I recognise that a lot of the responsibility rests with state governments. But, equally, there are frivolous claims of violence.

I know some speakers have referred to a number of studies that have indicated that frivolous claims are not there. So how do I substantiate the statement that there are frivolous claims of violence? Well, I can tell you that I have spoken to a number of lawyers who practise in the Family Court. In fact, I have in mind a QC who only operates in the appeals section of the Family Court. He said to me that perjury is rife in the Family Court, and that is true. The strict rules of evidence—and I understand why—do not apply to that court. In some ways it handicaps the court; in other ways it assists the court. But let no member of parliament be under any illusion. Perjury exists in the Family Court, and hence my assertion that there are frivolous claims of violence.

In proposing that these two committees look at the issue of family violence, it would be unreasonable for the opposition to suggest that we could not look at frivolous claims of violence and that, equally, for government members—and I do not believe they necessarily had that view—we should exclude the actual incidence of family violence. By and large, under the current arrangements, women—who are the majority victims—actually have to be bashed
twice before the system springs into action. In any magistrate’s court on the day for these apprehended violence orders, magistrates turn them out like sausages, so often the person who is the subject of the apprehended violence order is urged not to resist it. But, once the order is placed upon them, they are forever labelled in the system as perpetrators of violence. We need to do something about that.

As I say, I would be less than sincere and honest if I did not say how disappointed I was that the government did not pick it up. I have utter faith that the House of Representatives Standing Committee on Family and Human Services—the former House of Representatives Standing Committee on Family and Community Affairs—chaired by the honourable member for Mackellar, and the legal and constitutional committee, chaired by the honourable member for Fisher, would have done a good job, as they did with this legislation and as they did with the report *Every picture tells a story*. Why shouldn’t we have a go?

People have said to me that there have been any number of studies in this area, but politicians have a unique knack of getting in there, sensing what is wrong and knowing how to correct it. Why couldn’t this federal parliament have had a go? I understand that, as I said, major responsibility rests with the states, but why couldn’t we have gone in, had a look and seen how we could have really made an impact in this area? I think it shames us all. As I say, I think the current situation is abominable, and we need to do better. I am reminded that in my state we incarcerate people for family violence. At the current time they get absolutely no assistance in overcoming the things that led to them being charged and convicted.

I have always expressed an interest in industry policy. I do not claim to be an expert, but if you are looking at industry policy I think you would agree with me, Mr Deputy Speaker Causley, with your experience, that the first thing you have to do is understand the industry and know it—what size it is. No Attorney-General, Labor or Liberal, has ever looked at the amount of money families spend on private practitioners. When Kevin Andrews, for whom I have a high regard in this area of activity and with whom I worked some time ago, was chairman of the House of Representatives Standing Committee on Legal and Constitutional Affairs, it was estimated that family violence was costing us $6 billion. I can tell you what the cost of the Family Court is and the associated magistrate’s court, but I cannot tell you how much families are spending on private practitioners, and we ought to know. I think that if ever we did a study the figure would stagger us all. I urge my coalition colleagues—not in a pejorative way—and I urge the Attorney to have a study that looks at that. Since I first became interested in family law, I know that there have been a number of changes designed to reduce people’s dependence on the legal profession or avoid their entrapment by the legal profession, and I welcome it. This is another attempt, and I welcome it. But how much today are families—that is, mothers and fathers and often grandfathers and grandmothers—spending on private practitioners?

When I was working with Mr Andrews, the current Minister for Employment and Workplace Relations, we used to talk about three pillars in this area—that is, you had to tackle the three pillars together. One was family law, one was child support and the other was counselling. Unfortunately—and I regret to say that it is still the case, essentially, with this legislation—the Commonwealth will now be spending increased money once we know that the relationship is dead, that there is no life in it. Those Commonwealth dollars will pour out.
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I know that there have been changes to counselling for those intending to get married, and I strongly support that. I would urge any couple who were intending to take that wonderful and final step of marriage to participate in premarital counselling. The problem we have today is that lots of couples are choosing not to get married, so there is no intervention point. But, again, if we can provide counselling while the relationship still has some life, slim though it might be, still some blood circulating in it, we are likely—even if we do not save the marriage or the relationship—to make communications a bit easier when it finally ends.

I know that on some of this legislation the fathers groups will say that we have not gone far enough, but I think we have made a big change. In the previous act, it certainly was up to the Family Court to look at joint responsibilities—and I could quote the sections, but I will not. But we have made it doubly clear to the Family Court that they do need to take into account the joint responsibility that both parents have to their children, and that is a good thing.

In the time left to me, I will just say a few more things, very quickly. The original committee recommended a tribunal. I have to say that I have been speaking for about nine years about a no-frills tribunal where couples can have their matters arbitrated at no legal cost. For the report *Every picture tells a story*, the committee actually had Commonwealth legal advice on two occasions that said that residency and access arrangements were administrative, not judicial. But there is a problem. I have forgotten the case now that the High Court dealt with concerning HREOC. It said that where a tribunal is involved in judicial matters it must be headed by a chapter 3 judge. It is a great limitation for the Commonwealth. In a state, under state constitutions, you can have no-frills tribunals—guardianship tribunals, small claims tribunals et cetera. The committee recommended a three-member tribunal. I supported the recommendation, but you can actually do it with one. The member for Dickson was very keen about an investigative arm. We are not going to get that, and I am not complaining about it.

But the opportunity exists in Western Australia—because the Family Court there still operates under the state constitution—to actually pilot a tribunal where parents can go and, by agreement, have a tribunal arbitrate their matters without any costs. I think it would be very successful. I passionately believe it would be very successful. In this area, I think it is worth trying some things, even if they do not meet our high expectations. I would say to the government, as well as to my own colleagues, getting back to the point made by the honourable member for Hume: it is complex, it is difficult, and it is emotional, but we have a responsibility as legislators to try to solve some problems. I think the Attorney did the concept no favours when he floated in the media that a tribunal would cost six times what the Family Court currently costs—$600 million. I think it was an absurd figure.

There are people that mediation suits. There are people who will have their needs met by family dispute centres. But there are lots of people who really just want decisions made about their marriage and their responsibility, their property and their access, and arbitration. The informal surroundings of a tribunal I think will be conducive to that.

On the family dispute resolution centres: good move. I am concerned about how those centres will deal with pre-existing orders. I have a concern that we need a proper accreditation regime. The other thing is the three hours of free mediation or consultation: I hope it works, but I fear it is too little. And I hope the parliament will be happy to revisit this. Let us set them up and see how they operate and then in 12 months let us have another look and ask: ‘Are they working? Do we need to do something else? Do we need to make changes?”
I passionately plead—because I was shocked in the inquiry that the Legal and Constitutional Affairs Committee conducted—that we must accredit practitioners. I was absolutely stunned that people who are employed to act as principal persons under supervised contact are not required to be accredited at all. I hope that any member of the House or public who may have strayed onto my speech does not misunderstand me. I strongly support the bill. The opposition will be supporting the bill.

I should have mentioned that, in relation to family violence, the Attorney has commissioned the Institute of Family Studies to look at the problem. I have no high expectation of the outcome. I think that over the years the Institute of Family Studies has been an absolute disappointment, from the time that Andrew Peacock first expressed concerns about it. Again, I am not trying to be churlish; I just think that members of parliament could have done an infinitely better job—and I hope the opportunity is not lost to give it to a parliamentary committee.

Whatever we do, whether it is in this legislation or elsewhere—and I apologise: I have not had a chance to look at child support—as much as we try to get things perfect, we are always going to have to test how they are working. We should not be embarrassed about making changes because, as you know Mr Deputy Speaker, community attitudes and norms change over time—very rapidly. And as much as we are genuine in trying to get things right, we are merely humans; we are not going to get it perfectly right. As I said, there is a dynamic society out there, with changes happening more rapidly than perhaps we are prepared to contemplate. So whether it is this bill or the child support legislation, which no doubt we will be debating at a later date, let us not be backward in having a look at it down the track. Let us not be backward about saying, ‘This has worked well,’ ‘This hasn’t worked well,’ or, ‘We need to strengthen things here.’ What family law and child support really need is committed members prepared to make their contributions. (Time expired)

Mrs GASH (Gilmore) (7.29 pm)—I move:

That further proceedings be conducted in the House.

Question agreed to.

Main Committee adjourned at 7.29 pm
QUESTIONS IN WRITING

Superannuation
(Question No. 2460)

Mr Hayes asked the Minister for Revenue and Assistant Treasurer, in writing, on 11 October 2005:

(1) In respect of his media release dated 6 September 2005 titled ‘$309 million win for low to middle income earners’, for what period was the $309 million allocated.

(2) What is the average contribution made by the Government under the Superannuation Co-contribution Scheme.

(3) What is the average income of all recipients of the co-contribution.

(4) How many residents of the electoral division of Werriwa (a) applied for and (b) received the co-contribution last financial year.

(5) What is the average income of the recipients of the co-contribution who reside in the electoral division of Werriwa and what was the average co-contribution they received.

Mr Dutton—The answer to the honourable member’s question is as follows:

(1) The 2003/2004 income year. The figure was for payments made up to 30 June 2005.

(2) The average co-contribution is $540.

(3) The average income was $26,937 p.a.

(4) and (5) The Tax Office is unable to provide co-contributions information by electoral divisions. Individuals do not directly apply for a co-contribution payment. The ATO calculates taxpayers’ entitlements based on their income tax returns and information contained in the member contribution statement provided by superannuation funds.

Government Advertising
(Question Nos 2489 and 2490)

Mr Murphy asked the Special Minister of State, in writing, on 13 October 2005:

(1) What sum was spent on each of the four page advertisements titled ‘WorkChoices. One simpler, national Workplace Relations System for Australia’ which appeared on pages (a) 13 to 16 of The Daily Telegraph, (b) 7 to 10 of The Sydney Morning Herald, (c) 7 to 10 of The Australian, (d) 7 to 10 of The Age, (e) 17 to 20 of the Herald-Sun, (f) 9 to 12 of The Courier Mail, (g) 11 to 14 of The Advertiser, (h) 19 to 22 of The West Australian, (i) 7 to 10 of The Canberra Times, and (j) 11 to 14 of The Australian Financial Review, on 12 October 2005.

(2) What sum was spent on each of the same four page advertisements that appeared in (a) the Newcastle Herald, (b) The Illawarra Mercury, (c) The Mercury (Hobart), (d) the Townsville Bulletin, and (e) the Northern Territory News on 12 October 2005.

(3) What sum will be spent on (a) television, (b) radio, and (c) print media advertising titled ‘WorkChoices. One simpler, national Workplace Relations System for Australia’ broadcast or published before the Government’s proposed industrial relations changes are introduced into the Commonwealth Parliament.

Mr Nairn—The answer to the honourable member’s questions is as follows:

(1) (a) $94,399.32;

(b) $55,272.54;
(c) $90,526.84;
(d) $37,908.73;
(e) $102,363.93;
(f) $79,392.59;
(g) $30,410.44;
(h) $36,615.22;
(i) $22,625.67; and
(j) $74,252.70.

(2) (a) $13,056.52;
(b) $11,133.47;
(c) $10,996.19;
(d) $7,920.54; and
(e) $10,010.82.

(3) (a) $18,373,924*;
(b) $3,880,645*; and
(c) $7,700,367*.

*Note: These figures relate to the period prior to the introduction of legislation on 2 November 2005.

PricewaterhouseCoopers
(Question No. 2825)

Mr Bowen asked the Minister representing the Minister for Finance and Administration, in writing, on 8 December 2005.
Did the Minister’s department engage Pricewaterhouse Coopers for management consulting purposes at a cost of $25,221; if so, what services were provided under the terms of this contract.

Mr Costello—The Minister for Finance and Administration has supplied the following answer to the honourable member’s question:
Yes. The Department of Finance and Administration engaged PricewaterhouseCoopers for a total value of $25,221 (inclusive of GST) to provide additional internal audit services on information management work practices and culture within the Department.

Heads of Missions
(Question No. 2837)

Mr Rudd asked the Minister for Foreign Affairs, in writing, on 8 December 2005:
Which Australian Heads of Mission are due to finish their postings in (a) 2006 and (b) 2007.

Mr Downer—The answer to the honourable member’s question is as follows:
(a) and (b) As with successive governments, the length of Head of Mission appointments is a matter for the Government to decide.
Consular Services
(Question No. 2843)

Mr Rudd asked the Minister for Foreign Affairs, in writing, on 8 December 2005:

(1) For how many Australians overseas did his department provide consular services in (a) 2000, (b) 2001, (c) 2002, (d) 2003, (e) 2004, and (f) 2005.

(2) How many travel documents did his department provide in (a) 2000, (b) 2001, (c) 2002, (d) 2003, (e) 2004, and (f) 2005.

(3) How many consular officers did his department employ in (a) 2000, (b) 2001, (c) 2002, (d) 2003, (e) 2004, and (f) 2005.

Mr Downer—The answer to the honourable member’s questions are as follows:

(1) and (2) This information is available on a financial year basis and can be found in the department’s annual reports.

(3) It is not possible to disaggregate the number of officers engaged in consular work in the department. Consular work is an integral priority responsibility of overseas missions and many staff, including heads of mission, can be engaged in discharging consular functions. Officers in Canberra can work in consular branches for a period and then transfer to other areas. Many officers work on consular crisis teams on a short-term basis during consular crises.

High Seas Task Force
(Question No. 2985)

Mr Martin Ferguson asked the Minister representing the Minister for Fisheries, Forestry and Conservation, in writing, on 7 February 2006:

(1) Will the Government be sending representatives to the March 2006 Paris meeting of the High Seas Task Force, if so (a) will the Government include a representative of the (i) Maritime Union of Australia and (ii) fishing industry in the delegation and (b) what actions will the Government promote at the meeting to stop flags of convenience ships providing a cover for illegal, unreported and unregulated fishing.

(2) What discussions has the Minister and the Department had with the Minister for Transport and Regional Services or the Department of Transport and Regional Services concerning his view that flags of convenience shipping acts as a cover under which security, immigration and other breaches of Australian law and practice can occur.

Mr McGauran—The Minister for Fisheries, Forestry and Conservation has provided the following answer to the honourable member’s question:

(1) Yes. I will be attending the meeting of the High Seas Task Force in my capacity as Minister for Fisheries, Forestry and Conservation. Officers from the Australian Government Department of Agriculture, Fisheries and Forestry (the Department) will also be in the official delegation.

(a) (i) No (ii) No

(b) The Australian Government recognises that responsible flag state and port state behaviour is central to strong deterrence of illegal, unreported and unregulated (IUU) fishing. To help tackle the problem of flag states that fail to live up to their international obligations, the High Seas Task Force has developed a set of guidelines on flag state performance for fishing vessels. At the High Seas Task Force meeting, the Government, along side other members of the Task Force, will consider agreeing and promoting these guidelines internationally.

(2) The release of a recent report detailing how flags of convenience provide a cover for IUU fishing resulted in discussions between Departmental officers and the Department of Transport and Re-
regional Services (DOTARS) regarding the function of open registries in the shipping and fishing industries. The International Maritime Organisation supports the use of open registries for the world commercial shipping industry. However, open registries also present a large and growing problem that seriously inhibits the ability of States and Regional Fisheries Management Organisations to manage the global industrial fishing fleet and tackle IUU fishing. The Department will continue to engage with DOTARS as it is important that the issue of open registries and fishing vessels be resolved.