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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

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

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<td>Vasta, Ross Xavier</td>
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<td>Washer, Malcolm James</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 V anstone
The Hon. Julie Isabel Bishop MP
The Hon. Malcolm Thomas Brough MP

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<td>Minister for Fisheries, Forestry and Conservation</td>
<td>Senator the Hon. Eric Abetz</td>
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<td>Senator the Hon. Charles Roderick Kemp</td>
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<td>The Hon. Joseph Benedict Hockey MP</td>
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<td>The Hon. John Kenneth Cobb MP</td>
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<tr>
<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Peter Craig Dutton MP</td>
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<td>Special Minister of State</td>
<td>The Hon. Gary Roy Nairn MP</td>
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<td>Minister for Vocational and Technical Education</td>
<td>The Hon. Gary Douglas Hardgrave MP</td>
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<td>Minister for Ageing</td>
<td>Senator the Hon. Santo Santoro</td>
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<td>The Hon. Frances Esther Bailey MP</td>
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<td>The Hon. James Eric Lloyd MP</td>
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<td>Minister for Workforce Participation</td>
<td>The Hon. Dr Sharman Nancy Stone MP</td>
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<td>Parliamentary Secretary to the Minister for</td>
<td>Senator the Hon. Richard Mansell Colbeck</td>
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<td>The Hon. De-Anne Margaret Kelly MP</td>
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<td>Parliamentary Secretary to the Minister for</td>
<td>The Hon. Andrew John Robb MP</td>
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<td>The Hon. Malcolm Bligh Turnbull MP</td>
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<td>Parliamentary Secretary to the Treasurer</td>
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<td>Parliamentary Secretary (Foreign Affairs)</td>
<td>The Hon. Teresa Gambaro MP</td>
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<td>The Hon. Kim Christian Beazley MP</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>Nicola Louise Roxon MP</td>
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<td>Shadow Minister for Regional Development</td>
<td>The Hon. Simon Findlay Crean MP</td>
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<td>Shadow Minister for Primary Industries, Resources, Forestry and</td>
<td>Martin John Ferguson MP</td>
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<tr>
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<td>Water and Deputy Manager of Opposition Business in the House</td>
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<td>Shadow Minister for Employment and Workforce Participation and Shadow</td>
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<td>Laurie Donald Thomas Ferguson MP</td>
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<td>Gavan Michael O’Connor MP</td>
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<tr>
<td>Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow Minister for</td>
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<td>Robert Charles Grant Sercombe MP</td>
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<tr>
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The SPEAKER (Hon. David Hawker) took the chair at 9.00 am and read prayers.

BUSINESS

Days and Hours of Meeting

Mr ABBOTT (Warringah—Leader of the House) (9.01am)—I move:

That, for the sitting of the House on Monday 27 March 2006:

(1) proceedings commence at 1 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.

Question agreed to.

HEALTH AND OTHER SERVICES (COMPENSATION) AMENDMENT BILL 2006

First Reading

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

Second Reading

Mr ABBOTT (Warringah—Minister for Health and Ageing) (9.01 am)—I move:

That this bill be now read a second time.

The bill proposes to amend the Health and Other Services (Compensation) Act 1995, known as the HOSC Act. The act was passed to ensure that those successful claimants for compensation do not ‘double dip’ by obtaining dual payments for their Medicare, nursing home and residential care payments. When plaintiffs go to court to recover damages for personal injuries, the legislation requires that they repay to the Commonwealth the cost of any Medicare, nursing home and residential care benefits received because of the injury for which they have also been compensated as part of the compensation judgment or settlement.

The bill arises from the need to repeal the sunset clause, section 33AA of the HOSC Act, which will cease as from 1 July 2006. Unless section 33AA of the HOSC Act is repealed before 1 July 2006, compensation claimants will no longer have access to the majority proportion of compensation money at the time of their judgment or settlement. The HOSC Act allows compensation payers and insurers to pay 10 per cent of the judgment or settlement to Medicare Australia and the balance of the judgment or settlement to be released to the claimant by the courts, under division 2A, advanced payment option to the Commonwealth, under the HOSC Act. This provision will cease if section 33AA is not repealed. Of the 50,000 judgments or settlements reported under the HOSC Act each year, more than 80 per cent utilise the advanced payment option.

Other minor technical amendments are also included in this bill. The minor amendments are designed to clarify the original intent of the act, provide a formal review pathway and make the act consistent. The other amendments relate to:

• The definition of fatal injury being removed because currently persons who are fatally injured and incur any Medicare, nursing home or residential care expenses are required to comply with the HOSC Act. The removal of the clause leaves no doubt as to the obligation incurred by compensation payers, insurers
and claimants if Medicare, nursing home or residential care expenses have been incurred,

- Aligns paragraph 17(6)(a) with paragraph 23(3)(b) which uses the date of injury as a trigger for recovery action relating to previous Commonwealth expenditure on Medicare, nursing home or residential care. This allows Medicare Australia a 60-day period to provide a history statement if the date of injury was greater than five years old,

- Provides a formal pathway to allow claimants to have their notice of claim reviewed by Medicare Australia where an informal system currently exists, and

- Provides a clarification of the value of a ‘small amount’ to align the provisions of the HOSC Act with the definition of a ‘small amount’ in section 38(2) of the HOSC Act.

This bill ensures the continuation of an effective mechanism for recovering funds where a person would otherwise ‘double dip’ while still allowing compensation recipients access to the majority of their funds. I commend the bill to the House and present the explanatory memorandum.

Debate (on motion by Mr Bevis) adjourned.

GENERAL INSURANCE SUPERVISORY LEVY IMPOSITION AMENDMENT BILL 2006

First Reading

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

Second Reading

Mr DUTTON (Dickson—Minister for Revenue and Assistant Treasurer) (9.04 am)—I move:

That this bill be now read a second time.

The government recognises the importance of ensuring that consumers are able to access affordable insurance. Insurance helps individuals, businesses and other organisations deal with a range of unexpected events in their lives, by reducing the disruption that occurs.

The government is committed to ensuring that the framework for the prudential regulation of insurers is robust and effective.

Insurers operating in Australia are regulated by the Australian Prudential Regulation Authority, APRA. APRA works with all regulated insurers to make certain that they operate within prescribed standards.

These standards typically involve determining whether the financial framework of insurers is sufficiently robust so that they are able to meet their obligations in a sustainable manner.

This framework benefits not only the insurers themselves but all stakeholders that interact with the insurance sector. Consumers, for instance, have greater confidence in the ability of an insurer to make good on claims made.

The costs incurred by APRA for managing the regulatory framework are recovered from the industry through a supervisory levy.

APRA also incurs costs associated with tasks not directly related to its supervisory responsibilities. For example, it incurs costs in operating the national claims and policies database.

The national claims and policies database was commissioned by the government in the context of concerns in relation to the availability and affordability of public liability and professional indemnity insurance.

Since 2002, the government has led a range of tort law reforms designed to improve the availability and affordability of insurance. These reforms have been designed
to ensure that the lack of affordable insurance does not prevent the community from engaging in normal activities such as hosting a local fete or going to the beach. At the same time, reforms have also been designed to ensure that people who provide a service or advice, such as architects and doctors, are not prevented from practising due to prohibitive insurance costs.

To ensure that the benefits of these reforms are passed on to the community, the government asked the Australian Competition and Consumer Commission (ACCC) and APRA to examine and report on the market for public liability and professional indemnity insurance.

As a result of this work, members of the community can now access information about the market for these types of insurance. Initial reports reveal good news about the market, with premiums clearly falling. Specifically, APRA has developed a database designed to capture public liability and professional indemnity information directly from insurers. Information within the database is used to report on the market and to assist insurers, government and other stakeholders in analysing this market. The expectation is that this information will continue to improve the availability and affordability of public liability and professional indemnity insurance.

However, not all general insurers offer public liability and professional indemnity insurance. In line with the government’s cost recovery principles, only those insurers who contribute to, and thereby can benefit from, the database should contribute towards its cost. Insurers who do not use the database should not be expected to fund it through the general supervisory levy.

The bill provides for a special levy which will allow the recovery of costs from a class of general insurance company. Therefore, the bill will allow the recovery of costs from insurers who are contributing to the national claims and policies database.

The government considers it important that APRA has a sustainable funding base from which to operate. This bill helps ensure the viability of that funding base by providing the flexibility to recover costs where appropriate.

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

Debate (on motion by Mr Bevis) adjourned.

RENEWABLE ENERGY (ELECTRICITY) AMENDMENT BILL 2006

First Reading

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

Second Reading

Mr HUNT (Flinders—Parliamentary Secretary to the Minister for the Environment and Heritage) (9.09 am)—I move:

That this bill be now read a second time.

The Renewable Energy (Electricity) Amendment Bill 2006 amends the Renewable Energy (Electricity) Act 2000 (the act) to implement the government’s agreed response to a statutory review into the operation of the act held in 2003.

The Renewable Energy (Electricity) Act 2000 establishes Australia’s mandatory renewable energy target, or MRET, measure. MRET came into operation in 2001 and is scheduled to end in 2020. Australia was the first country in the world to introduce such a nationally mandated renewable energy target backed by legislation.

MRET places a legal liability on wholesale purchasers of electricity (retailers and large users) to contribute proportionately towards annual targets for additional renew-
able energy which ramp up to 9,500 gigawatt hours in 2010 and remain at that level until the measure expires in 2020. An additional 9,500 gigawatt hours represents an increase of over 50 per cent above the 16,000 gigawatt-hour level of renewable electricity generated in 1997, when the initiative was announced.

On current projections, achieving the 9,500 gigawatt hours target would bring the renewable share of electricity consumption in 2010 to around 11 per cent, which is comparable with renewable energy targets committed to by other countries.

MRET uses a market based approach to drive higher renewable energy uptake. Renewable energy generators accredited under the measure may create one tradeable renewable energy certificate for each megawatt hour of energy they produce. The measure creates an incentive for electricity retailers and large users to purchase these certificates and surrender them to demonstrate their compliance. The act and regulations create the structure and rules for the market to operate effectively and are administered by the renewable energy regulator.

Following the 2003 review of the act, the government agreed to make improvements to the legislation that enhance market transparency and improve business certainty in the measure. The government also agreed to increase opportunities for bioenergy and solar technologies, encourage innovation through recognising emerging renewable electricity generation technologies and make a range of administrative amendments to improve the effectiveness and efficiency of operation of the scheme. This includes adopting provisions of the Renewable Energy (Electricity) Amendment Bill 2002 that sought to improve the administrative integrity, effectiveness and efficiency of the measure.

The 2003 review identified that issues of market transparency and business certainty were of significant concern to the renewable energy industry and also parties that incur a liability under the measure. This bill includes a number of amendments to deal with these issues.

To assist market transparency, the bill introduces a time limit following renewable energy generation during which renewable energy certificates for that generation must be created.

The bill also enhances market transparency by allowing for the publication of additional data relating to renewable energy generation, the baselines allocated to power stations that were in operation prior to the announcement of the measure, and additional information on a liable party’s renewable energy certificate shortfalls.

These improvements will facilitate a more efficient renewable energy certificate market in which participants are able to make better informed investment and trading decisions and better manage their MRET liabilities.

Renewable energy project developers in their submissions to the 2003 review flagged that power station accreditation procedures were a significant impediment to attracting financial backing. To help address this issue the bill provides a process for granting provisional accreditation from the renewable energy regulator at the pre-commissioning stage. Provisional accreditation would be provided on the basis of what is known at the time of application and, while it would not replace the required accreditation process within the act, is expected to assist in defining and managing investors’ risks.

To further assist business certainty, the bill introduces a time limit for the regulator’s consideration of applications for accreditation of generators. This will help streamline
development by minimising delays in project approvals.

The government has recently made amendments to the MRET regulations that provide more opportunities for bioenergy and solar energy technologies under the MRET scheme. These changes expand the meaning of energy crops and provide the vast majority of new solar electricity systems with an option to create 15 years of tradeable renewable energy certificates in a single up-front transaction.

The bill provides further opportunities for the participation of bioenergy by enabling renewable energy certificates to be created for a broader range of renewable material that would otherwise have gone to landfill, and broadening the scope of wood from plantations that is eligible as a renewable energy source under the measure.

Amendments in this bill increase opportunities for solar energy technologies by allowing more solar water heater systems installed to be eligible to create renewable energy certificates. By simplifying the rules and expanding the range of eligible installations it will be easier for home and building owners to participate in the measure.

Further amendments in the bill clarify the provisions in relation to claiming renewable energy certificates associated with solar water heaters and small generation units, and expedite the process by which certificates can be claimed for new solar water heater models as they become commercially available. The solar water heater manufacturing industry has welcomed the changes as they provide further opportunities for the industry.

In addition to these improvements the bill provides for the surrender of renewable energy certificates by persons who do not have a liability under the act. This will allow interested individuals or organisations to purchase certificates and voluntarily retire them from circulation. This could be done for a wide range of reasons, including for philanthropic purposes. It should be noted that the legislation does not compel or pressure businesses or individuals to take such action.

The bill also contains a range of administrative amendments. The clarification of definitions is particularly important from the standpoint of investors in renewable energy. The amendments will provide greater clarity about what is an eligible renewable energy source, what is an accredited power station and what is a relevant acquisition of electricity. Similarly, the capacity to vary or amend documentation or decisions meets a pragmatic need of the regulator to address mistakes made by participants or to respond to changing circumstances, additional information or the results of monitoring and compliance actions.

The power to gather information and documents will allow the efficient administration of the legislation and is a means by which informed decisions about the participants in the trading of renewable energy certificates can be made. Information will be confined to that which is relevant to the operation of the act.

The suspension of an accredited power station is particularly important to ensure that the operators of these businesses conduct themselves in a manner in keeping with the objectives of the legislation. A power station’s accreditation can be suspended in a range of circumstances including where a power station contravenes or is suspected of contravening a law of the Commonwealth, a state or a territory or where the renewable energy regulator is reasonably of the opinion that a gaming arrangement has occurred. Gaming involves generators manipulating their output to increase their eligibility for renewable energy certificates without increasing renewable generation, and the pow-
ers foreshadowed in this bill ensure that such action cannot pose a threat to the integrity of the legislation.

Decisions by the renewable energy regulator to vary or amend decisions or assessments or to suspend entitlements under the act will be subject to review by the Administrative Appeals Tribunal.

The Renewable Energy (Electricity) Act 2000 was a world-leading piece of legislation and a number of countries have identified it as a model for promoting renewable energy through a market based trading system. The measure has been in operation since April 2001, and I am pleased to be able to report that it is delivering significant benefits.

Total renewable energy investment stimulated by MRET to date amounts to some $3 billion. The measure is expected to increase renewable energy generation by more than 50 per cent compared to pre-MRET levels. In addition, MRET has been the principal driver in the recent expansion of the renewable energy industry in Australia.

To date over 230 power stations, representing a wide range of renewable energy technologies, have been accredited under the measure and all interim annual targets have been comfortably met with nearly 100 per cent compliance by liable parties.

Australia’s wind power industry has grown strongly under the MRET scheme with more than 800 megawatts of wind energy capacity installed or under construction. Significant investment has also occurred in other sectors of the industry such as the refurbishment and expansion of pre-existing hydroelectric power stations and the development of new biomass co-firing and landfill gas power plants.

By 2010, MRET is expected to contribute around 6½ million tonnes of carbon dioxide equivalent abatement per annum, or around 10 per cent of total current projected abatement for the Kyoto commitment period of 2008 to 2012.

The package of amendments comprising this bill will help streamline the operation of the measure for the benefit of the industry and the Australian community to enable ongoing opportunities to encourage the additional generation of electricity from renewable energy sources and reduce emissions of greenhouse gases.

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

Debate (on motion by Mr Bevis) adjourned.

DELEGATION REPORTS

Delegation to Palau and the Federated States of Micronesia

Mr LINDSAY (Herbert) (9.21 am)—by leave—I present the report of the Australian Parliamentary Delegation to Palau and the Federated States of Micronesia from 16 to 24 November 2005.

FAMILY LAW AMENDMENT (SHARED PARENTAL RESPONSIBILITY) BILL 2005

Report from Main Committee

Bill returned from Main Committee for further consideration; certified copy of the bill presented.

Ordered that this bill be considered immediately.

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:

CHAMBER
(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:
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 de-
veloping expertise in supporting children in
family law matters”.

Ms PANOPoulos (Indi) (9.22 am)—It
gives me great pleasure to speak in support
of the Family Law Amendment (Shared Pa-
rental Responsibility) Bill 2005. This is but
one of three major initiatives to change how
the government helps people deal with fam-
ily breakdown. First, we have new commu-
nity services worth $397 million, including
the new network of family relationship cen-
tres, one of which will be established in my
electorate in the town of Wodonga. I am
pleased the Attorney-General has announced
that north-east Victoria will benefit from this
initiative. Second, I was pleased to see the
announcements the other day by the Minister
for Family and Community Services of child
support reforms that improve on a system
that has not worked to the advantage of chil-
dren. Instead, it has mainly worked to the
advantage of deceitful custodial parents.
Third is the bill I am speaking on today. This
bill finally moves away from the stifling lan-
guage of Whitlam era social progress. It is a
bill that takes seriously the myriad problems
that face custodial and non-custodial parents
today. In practical terms, if we elevate the
notion of relationships to being the No. 1
issue in society, this will be one of the most
important bills that we as parliamentarians
will ever debate.

This bill is the culmination of many years
of parliamentary work, reflecting the serious
nature of this issue. Back in June 2003 the
Prime Minister announced the House of Rep-
resentatives Family and Community Services
Committee inquiry, which produced the very
moving and very sobering report Every pic-
ture tells a story in December 2003. An ex-
posure draft of this legislation was consid-
ered by the House of Representatives Stand-
ning Committee on Legal and Constitutional
Affairs, of which I am a member, which re-
ported late last year. This bill, in combination
with the other two prongs of the Australian
government’s approach to family law reform,
recognises some important realities that we
need to keep in mind in this place.

Governments cannot legislate for the fail-
ure of marriage. Governments should not
allow vindictive parents to lock one parent
out of their child’s life on the grounds of a
baseless allegation. Governments should,
where possible, encourage cooperation, not
litigation, and move away from the adversar-
ial and litigation based spectacles that unfor-
unately beset many family breakdowns and
settlements. Governments should ensure that
the best interests of the child are at the heart
of any settlement. And governments should
ensure that the best interests of a child in-
clude, all things being equal, a meaningful
relationship with both parents. Family law
should not be couched as a male-female
1970s outdated gender equality battle. I have
had numerous complaints from non-custodial
fathers in my electorate who, despite their
best efforts, can be locked out of their child’s
life. The category I have the most complaints
from is the mother of a non-custodial father
or the second wife of a non-custodial father.

Despite numerous hours of bipartisan
work on this bill, the member for Gellibrand
moved an amendment that really does not
reflect this bipartisan cooperation. It was
interesting that yesterday the member for
Melbourne stated that the Labor Party be-
lieves these reforms are a move in the right
direction generally and that Labor supports
the bills but has some concerns. The truth is
that the member for Gellibrand circulated an amendment that fundamentally undermines this legislation. This amendment harks back to the failed policies that we have had to date where baseless allegations of violence can lock one parent out of a relationship, and it removes the need to attend mediation in a genuine fashion. It reflects the battle between the old leftists and feminist sisterhood and the ALP members who know the real concerns and needs of middle Australia. Labor is shamelessly positioning itself as supporting the bill while the member for Gellibrand seeks to neuter it. The Labor Party knows that these reforms will be welcomed by the community and that the community has waited for a long time for these reforms. At the end of the day the opposition lacks the courage to acknowledge the truth.

The shadow Attorney-General, whose ideological stance made her the lone disserter on the House Standing Committee on Legal and Constitutional Affairs on this topic, has bullied her more sensible colleagues into opposing this bill by the back door with an amendment that effectively kills it. Then again, what do you expect from someone fashioned in the old style of the Labor sisterhood? Someone from a very privileged, comfortable, middle-class background, who was educated at MLC, has the temerity to tell workers what they need and what they want. Then again, the member for Gellibrand is the same member who said that I did not understand anything about the multicultural community in which we live. If by ‘a multicultural community’ she means those who come from non-English-speaking backgrounds then I invite her to have a cup of tea with me and I can tell her all about it.

Back to the main points of this bill. Schedule 1 provides the central presumption of shared parental responsibility. Under this, the court will have to consider children spending equal time with both parents, but only where that is practicable. If that is not the case then the court will consider arrangements involving substantial and significant time in the day-to-day lives of children—and not just at weekends and holidays but a mix of days and nights. The courts will also need to consider which parents fail in undertakings or orders—that is, not paying child support or absence when handing over the children, as just some of the matters.

New section 68CC establishes a two-tiered approach, where at first the benefit of having a meaningful relationship with both parents is considered, along with the need to protect the child from physical and/or psychological harm. The next level is views expressed by the child and the relationship of the child with grandparents and other people. This is an important move. It does reflect the reality that we can no longer separate men and women in terms of their employment, level of income or share of parental care. The best resolution to a dispute is not one that is imposed on the parties but one they reach themselves, and this longstanding policy of the government is advanced here, where parties are encouraged to resolve their disputes in a non-adversarial manner.

Schedule 2 strengthens existing enforcement mechanisms to ensure that agreements are sustained. Schedule 3 will ensure that child related proceedings are child focused, less adversarial, less traumatic and easier for people to access. Schedule 4 ensures that dispute resolution is supported so that quality counselling and dispute resolution services are available to help settlement occur outside court. The amendment by the member for Gellibrand which removes the requirement to attend dispute resolution in a genuine fashion is indeed quite damaging to the Labor Party’s claim of support for the fundamentals of this bill.
Schedule 5 replaces ‘child representative’ with ‘independent children’s lawyer’ to represent the child’s interest. Schedule 6 protects a child from violence and provides state and territory magistrates with relevant instructions. Schedule 7 provides that no limit on property matters exists for the Federal Magistrates Court.

I welcome the debate on this bill and have been impressed by many of the contributions that members have made not only in the debate on the bill but in the preceding months, indeed years, of discussion that have led to it. I commend all those members who have made a heartfelt effort and who do care about families and about family breakdown and its impact on the communities within their electorates. I commend the bill to the House.

Mr QUICK (Franklin) (9.31 am)—I, like other speakers in this place, welcome the opportunity to speak on this most important piece of legislation, the Family Law Amendment (Shared Parental Responsibility) Bill 2005. All of us who had the privilege to be part of the then House of Representatives Standing Committee on Family and Community Affairs were involved in a frenetic round of hearings that consumed each and every waking moment of our lives for just over nine non-sitting weeks in 2003. We can now see the light at the end of the tunnel.

As a member in this place one is provided with an opportunity to make a difference. I know that is a well-worn cliche, but in this case it is true. Our groundbreaking report produced under the chairmanship of the member for Riverina, Kay Hull, entitled Every picture tells a story: Report on the inquiry into child custody arrangements in the event of family separation, was a bestseller. Thousands of copies were sought by people from all walks of life. The issue we tackled was complex, to say the least. As a committee we were charged with inquiring into, reporting on and making recommendations for action on the following:

(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.

(b) whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children.

(c) with the committee to report to the Parliament by 31 December 2003.

This issue, which as I said is complex and probably one of the most divisive in our society, impinges on a huge number of families across the length and breadth of our country. It results in trauma for children, parents, grandparents and close family members, and, sadly, it often results in violence and death. Family break-up is a sad reality of modern life, and daily we as members in this place can see at first hand the after-effects of marriage breakdown. We are challenged and confronted to try to sort out the mess, and in many cases we are expected to pick up the pieces. As with the debate we had recently on RU486, members who speak on this bill speak from their hearts because all of us have in some way been touched and affected by this issue.

Just over 30 years ago massive changes were made to the Family Law Act by the then Attorney-General, Senator Murphy. Just over 30 years later we are once again looking at real and significant changes. This bill is a
culmination of many years of work by a large number of people, not only the House committee on which I served but also the House Standing Committee on Legal and Constitutional Affairs chaired by the Hon. Peter Slipper.

It is a shame in a way that in these last stages of the debate we see members in this place behaving and speaking much like divorcing couples, each accusing the other of being wrong and believing they have the right to impose their will on the other. I think that is sad. Our committee in those nine frenetic weeks of touring was confronted by all aspects of this very complex issue. There are no right or wrong ways. I would like to pay a tribute to the Attorney-General because, as with the Attorney-General 30 years ago, he has to have the wisdom of Solomon. When families break down there is trauma. Let us be honest: there are many members of the House of Representatives who have gone through divorce and know at first hand how difficult it is when you split up from your partner and when there are children involved. We have a crazy enough lifestyle as it is in this place, being away from our families for 20 weeks a year, and for probably another 10 weeks wandering around Australia doing committee work. So when our families do split up for a variety of reasons, we go through exactly the same trauma as the people we are expecting to look after when we put in place this bill.

As I said, it is a shame that many in this place are behaving just like those divorcing couples. The phrase ‘the best interests of the children’ should be imprinted on our foreheads, because that is what we should be basing this legislation on. It should not be about the best interests of mum, or dad, or both sets of grandparents, or extended families but about the best interests of the children. We are not talking about 5,000, 10,000, 20,000, 100,000 or 200,000 children; we are talking about close on a million children. They call them the McDonalds children, because every second weekend they travel from the resident parent to the non-custodial parent to see dad or, in a few cases, mum—every second weekend and half the school holidays, if they are lucky. One million children.

As a teacher of 23 years experience, I know the trauma that these kids go through, because I have seen them in the classroom after they have seen dad or mum on their fortnightly visit. The kids are traumatised, and we as teachers are expected to educate these kids. People on either side should not wax lyrical about how they are right and others are wrong and put forward amendments and give examples of post-feminist crap or whatever. We need to go back and look at what is in the best interests of the children.

When we look at the wonderful report, which I am proud to have been a part of, and at the figures on parental care arrangements—table 1.3, at page 13, records the frequency of visits—we can see starkly just how many children only see their other parent infrequently. We are dealing with a monster. I imagine that when these children who come from blended families form relationships they are going to create more problems than we can shake a stick at—unless we get this legislation right and sort it out and throw the responsibility back on the husband and the wife.

If we were to say in this place when we come to have a vote, ‘Hands up all those who have gone through divorce?’ the general population might be amazed but would not be surprised, because one in three marriages end up in divorce, and that is a hell of a lot. This legislation is groundbreaking. It is an honest, serious attempt to get the problem resolved. When we put our report out, we upset the fathers, we upset the mothers, we
upset the Family Court lawyers and we upset the Family Court. And the 10 members of the committee thought that we must have done something right—‘They are all upset’, which is wonderful.

We were overwhelmed with submissions—there were something like 1,700 submissions. We heard from all angles. The thing that really worried me was the involvement of lawyers. I do not particularly like lawyers—I must admit that quite honestly and frankly. They are a blight on our society. You only have to look at the tax laws to see how well they have organised our lives to make it so confusing that you have to rely on them. When it comes to family law, it is almost as bad.

There is a rush to go and see your lawyer and get an apprehended violence order. First in gets the house and is able to lock the other person out. There is this fixation with confrontation. I am happy that the recommendation of our bipartisan report was to send them packing. They are the last resort. The best interests of the children should be paramount. Sit down and work out a responsible parenting plan and do not have these stupid arguments, such as, ‘My religion is more important than your religion,’ ‘John has to go to the local Catholic school rather than the local primary school,’ ‘Your parents cannot see him,’ and, ‘I’m going to go to the lawyer and make sure I punish you.’

The sad thing about divorce is that two people who once committed themselves to vows in front of a whole bunch of their family and friends resort to tearing each other apart. The sad cover of this wonderful report, illustrated by one of the children who went through the trauma, tells it all. It tells it better than we in this place, who are supposed to be articulate, can tell it, because they have gone through it.

With this legislation, it is sad that we have to see amendments. It is sad that we have to focus on some issues. The issue that is usually focused on is that of violence. There are so many wonderful things in this legislation, and sadly we on this side of the fence are looking at the wrong part of it. We need to get the family relationship centres operational right across Australia—and not just parked in certain seats so there is an opportunity to win or retain them. They have to be where there is the greatest need. I know that in most cases they are, but I think that the people in my area, which has regional and rural towns, should have the same opportunity as people in the big CBDs. They are no different; their marriage break-up rates are exactly the same as those of the people living in the CBDs.

I know the people who work in these relationship centres and the wonderful work they do. Today I publicly pay tribute to them, because they do not have an easy job sorting out the mess, trying to impose some discipline and structure in the best interests of the children. Sure, there is violence—we read of it daily, where frustrated fathers kill themselves and their children or kill their former wives—but I think to focus solely on that is going about it the wrong way. We need to focus on the positive aspects in the best interests of the children. And the best interests of the children are to make sure that there is a responsible parenting plan put in place by the mother and father that includes the grandparents on both sides and also those in the extended family. Let us face it: with the complexity of modern-day life and often the difficulty of unavailability of child care, you rely on a whole heap of people in your extended families to look after your kids, take them to school, take them to sport and take them to swimming lessons. You have suddenly been offered an extra three hours at Coles: ‘Can you look after the kids for me?’
To exclude those people from this parenting plan is stupid. We need to include them. That is what is great about this legislation: ‘in the best interests of the children’ encompasses a huge range of people who were once excluded. As we wandered around Australia we would hear evidence of one of the grandparents making up absolutely outrageous claims, often of violence and sexual abuse, just to make sure their child had custody of the children. In many cases these were false. As I said, AVOs were like sausages. They came out in droves. This was fostered by the legal profession who could make a quick quid out of it—and shame on them. I am glad that we have put them at the end of the line.

I am disappointed, as most of the members of committee are, that we could not get the tribunal up. Perhaps in later legislation, once this has been bedded down and worked through for a couple of years, we might have the foresight and imagination to get the tribunal. The 10 of us, who came from wide-ranging fields of life, realised that a tribunal will work. It is something totally different, and there are some constitutional hassles and hang-ups, as in 1975 when we had the revolution and went from fault to no fault in divorce. I must admit I was one in 1974 that had to stand up in court, plead guilty and be publicly humiliated and shamed because I was ‘at fault’ in a divorce. We do not have that now, and I am glad we do not. But now, 30 years later, we are rectifying a problem.

The real hassle with this legislation is that from now on divorces are going to be part of this process. What are we going to do with all the cases, the backlog, the tens of thousands of families queueing up to be part of this new process? As I said, close to a million children, for a variety of reasons, are being denied equal access to the other parent and there are huge consequences of that. As I said at the outset, this is a bit like the RU486 debate: people are speaking from the heart. I reiterate that we on this side do not have all the wisdom and those on the other side do not have all the wisdom. For goodness sake, let us get together on this issue because it affects each and every one of us. As I said, many in this place are trying to rebuild their lives because they have gone through a divorce and the trauma of having to not see their kids. Daily in our electorate offices we are picking up the pieces, advising people, and we must get it right.

So let us not play politics with this: one Attorney-General versus one shadow Attorney-General; people on one side and people on the other. Let us focus on the best interests of one million young Australian people who are currently being impacted by this very complex issue and of goodness knows how many other tens or hundreds of thousands in the future. We have a responsibility in this place. We are a select 150 people. We are expected to do what is right, honourable and just. If we focus on ‘in the best interests of the children’—not our best political interests or point scoring—we will get it right.

Mr TOILNER (Solomon) (9.51 am)—If there is an aspect of this job that causes me unease, and probably causes every member of this place unease, it is having to be involved with the consequences of family breakdown. It is a dreadful thing to be sitting in your office seeing a large, tattooed Territorian crying his eyes out because he has not seen his kids for 10 years. It is a dreadful thing to have to sit in your electoral office and watch a woman with three children crying her eyes out because he has not seen his kids for 10 years. It is a dreadful thing to have to sit in your office seeing a large, tattooed Territorian crying his eyes out because he has not seen his kids for 10 years. It is a dreadful thing to have to sit in your electoral office and watch a woman with three children crying her eyes out because she has not received any child support in a very long time and does not know where the next meal is coming from for the children.

When I first got into this job, I was asked by the Child Support Agency in Darwin to open one of their seminars. At the time, be-
Being very young and naive, I thought this was a good opportunity and I put a bit of time into making a nice flowery and up-beat speech about the wonderful things that the Child Support Agency were doing and whatnot. Everything seemed to go all right when I opened the meeting but, within a very short period of time, the situation broke down and people were screaming at one another across the room, and even a chair was thrown. I thought: ‘My goodness! What the hell have I got myself into here?’ It was quite an alarming experience. I think everyone would agree that this is an awfully difficult area for governments to bring themselves to be involved in and put themselves in the middle of family disputes and relationship breakdown. I am glad to see that a big effort has been made over recent years to sort out some of the problems in the system.

The Family Law Amendment (Shared Parental Responsibility) Bill 2005 has been described by the Attorney-General as representing the most significant changes to the Family Law Act since its inception 30 years ago. It is designed, along with the family relationship centres, to avoid litigation as the means of arriving at arrangements for the parenting of children after separation. The bill also complements the foreshadowed changes to the Child Support Agency that were announced just the other day by the Minister for Families, Community Services and Indigenous Affairs.

Considerable effort has been made to ensure that the bill, which is aimed at bringing about a cultural shift in how family separation is managed—away from litigation and towards cooperative parenting. To set the scene, I refer to the Prime Minister’s statement on 23 June 2003. He said:

I have expressed before, and I will say it again, that one of the regrettable features of society at the present time is that far too many young boys are growing up without proper role models. They are not infrequently in the overwhelming care and custody of their mothers, which is understandable. If they do not have older brothers or uncles they closely relate to and with an overwhelming number of teachers being female in primary schools in particular many young Australian boys are at the age of 15 or 16 before they have a male role model with whom they can identify.
I do not imagine that any one legislative change or pronouncement can alter that, but I think as a national parliament because this is a national responsibility there are things we can do about it ... I will be asking the committee to investigate 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.

I am a member of the House of Representatives Standing Committee on Legal and Constitutional Affairs that was asked to inquire into the exposure draft bill and to consider whether it implemented the measures set out in the government’s response to the report Every picture tells a story, which I just mentioned—namely, to encourage and assist parents in reaching agreement on parenting arrangements; to promote the benefit of the child by both parents having a meaningful role in their lives; to recognise the need to protect children from family violence and abuse; and to ensure that the court process is easier to navigate and less traumatic for the parties, particularly the children. The bill implements most of the recommendations that were made by the House of Representatives Legal and Constitutional Affairs Committee inquiry.

I would now like to refer extensively to a paper written by Michael Green QC, who was admitted to the New South Wales Bar Association in 1975 and is the President of the Shared Parenting Council of Australia. He says:

On the face of it, such sensible proposals you’d expect would be accepted unanimously.

Michael Green suggests that the average citizen might even be compelled to congratulate a government on such family-friendly initiatives. Unfortunately, this has not been the case. One objection is that compulsory mediation may force separated parents, especially women, to negotiate with abusive former partners and to agree to parenting relationships that are not safe for them or their children. This is not true and it has never been true. No mediator or mediation agency would conduct a mediation session where family relationships are affected by violence or abuse. In such instances, mediation is always seen to be very inappropriate. The new family law provisions specifically exclude mediation in such cases. Nor do mediators permit parties to agree to unsafe parenting arrangements. While entry into mediation may be required, remaining in the mediation session is voluntary. Furthermore, the parties have access to legal advice, either during the mediation or before signing any mediated agreement.

The opposition to reform from lawyers can only be motivated by professional and financial insecurity. Over 50 per cent of couples currently sort out their own post-divorce arrangements with little or no recourse to the law. With increasing education and the realisation that such processes can be managed without paying the $300 to $500 an hour that a lawyer asks, this opposition is set to continue. In 10 years time, will there be much work left for the normal Family Court lawyer? If this legislative reform and community education is properly supported—

The DEPUTY SPEAKER (Mr Hatton)—I will just stop the member for Solomon for a moment and call the attention of the minister who is on duty at the moment to the fact that it is necessary that we have both a minister and a shadow minister at the table at all times.

Mr McGauran—No, it’s not. What standing order?

The DEPUTY SPEAKER—A minister must be in the chamber and within the chamber confines at all times. I understand...
that you are waiting for someone to take your place.

Mr McGauran—What standing order is it that says I have to be at the table?

The DEPUTY SPEAKER—It is just the practice of the House, as I understand it from the Clerk. This matter arose the other day and it was drawn to the attention of one of the ministers.

Mr McGauran—But that’s a separate matter to me being at the table.

The DEPUTY SPEAKER—Yes, to being at the table, but it is also about being within the confines of the House and moving to the back part of it. Beyond the bar is outside the chamber, according to the Clerk’s information.

Mr McGauran—Is it? In that case, Mr Deputy Speaker, I apologise for pursuing the issue. Thank you for that clarification. I have learnt something more about the conventions and practices of the House.

The DEPUTY SPEAKER—As I have, Minister.

Mr TOLLNER—I will have to dwell on this. I did not realise that my speech was that boring that the minister would decide to leave at this particular time!

The DEPUTY SPEAKER—I do not think that was necessarily the intent. I am listening with interest, Member for Solomon.

Mr TOLLNER—Thank you very much, Mr Deputy Speaker. I will continue. In 10 years time, will there be much work left for the normal Family Court lawyer? If this legislative reform and community education that goes with it is properly supported, I would hope that the services of several Family Court judges and lawyers may no longer be required. Mr Green QC suggests, and I tend to agree with him, that feminist groups act on a similar anxiety for self-preservation of their feminist myth. Their support for the present system reveals a concern about power and money: if mothers share the parenting of children, it follows inevitably that they will have to share control of the family and of the resources that come with it.

The need revealed by women’s groups for funding and resources to support abused women and children is well established and well accepted. Not so, however, is the radical position that this is the lot of most women and children, particularly in the aftermath of separation and divorce. Radical feminism has done a disservice to women. It has sought to portray them as poor, suffering creatures that need protection from men and from paternalistic institutions, that are unable to speak comfortably for themselves and to make their own choices and that are easily led into negotiations where their will and interests are easily overruled. Such thinking is a grave insult to the majority of women. Ask any experienced mediator who carries the power in most mediations, and almost inevitably they will reply that it is the mother with the children.

I share Mr Green’s opinion that this government is to be congratulated on having the courage and energy to effect a new system of family law and practice based on reliable research and the aspirations of correct-thinking men and women. If enacted and funded and supported by community education, I hope this legislation will bring enormous benefits to mothers, fathers and, most importantly, children. I would again like to congratulate all of the parliamentarians who have been involved, both on this side of the House and the other, on the way that they have conducted themselves and on the genuine desire for all members to see a better system put in place. I would hope that everybody here would support this bill.

Mr ANDREN (Calare) (10.06 am)—With your indulgence, Mr Deputy Speaker Hatton,
just noting that little incident with Minister McGauran at the table a moment ago, it is interesting to note that the Independents over the years have become very familiar with the requirements of this place. Indeed, a well-loved former Independent member of this House, Ted Mack, used to stand in that area behind the bar—and the bar is at the back of the House, as we can see. ‘Behind the bar’ is not an oft-used term, especially where politicians are concerned, so perhaps that is why it has not been used so often over the years. In fact, that is an area where Ted Mack, and no doubt others over the years, have stood when they have chosen to abstain from a vote. It is an interesting little exercise that I think we can all learn from. It shows that we can all learn in this place every day.

The DEPUTY SPEAKER (Mr Hatton)—I think we are normally considered to be beyond the pale!

Mr ANDREN—Somewhat beyond the pale, and let us understand where we really are when we are behind the bar. There is no doubt family law and child support matters are probably the most draining and emotional issues to confront MPs. I well remember being shocked by the number and intensity of representations made to me when I first became member for Calare 10 years ago today. Thankfully, there have been some significant reforms with respect to child support matters, at least in the way complaints are handled by Centrelink, rather than the totally cold processes of the Taxation Office.

While I agree there still needs to be significant reforms in the child support domain, I am concerned at observations today from a former Chief Justice of the Family Court, Alistair Nicholson, who described the changes announced this week as ‘retrograde’. I agree that the reduction by 24 per cent in child support for an extra night spent with the non-resident parents seems very excessive, but I do believe there needs to be an adjustment of child support payments. The formula in the suggested changes includes differentiating between the below-12 years and over-12-years costs of raising a child, and that would seem to be a pretty sensible beginning.

Today we are dealing with the other aspect of family breakdown—that is, family law reform. The intent of the Family Law Amendment (Shared Parental Responsibility) Bill 2005 is very important. It is an attempt to help parents agree on the future of their children and to lessen the possibility of angst and frustration—indeed, violence—overwhelming the recognition of what are the very best interests of the child. While it is reassuring that 95 per cent of family law matters are resolved without court orders, many people would benefit from the guidance of professional counsellors to deal with interpersonal relationship issues or from dispute resolution, arbitration or reconciliation processes to try to work out a parenting plan that can be agreed upon.

Most of these services would presumably be provided by one of the 65 new family relationship centres. However, the nearest planned centre to the central west is Penrith, and I am concerned for those potential clients in my own electorate—and elsewhere in country New South Wales and elsewhere in Australia—who have neither the means nor the time to travel to, in this case, Western Sydney. Outreach services for rural areas would seem to be an absolute priority if these centres are to work. I note the CEO of the Family Court and delegated staff also have functions as family consultants, counsellors or dispute resolution practitioners, but I am also aware how stretched the court resources already are without these added duties.
Informing people about the new services available to them will, hopefully, circumvent the need for Family Court procedures from the outset for a number of people, should they wish to use these services before initiating divorce proceedings. Unfortunately, it may take the court to order parents to attend a dispute resolution service, counselling or any other of the services available. The court may specify the particular issue that must be addressed by these services and may make an order that the parties encourage others affected—such as grandparents or new partners—to participate in these services, with the intent that a parenting plan is negotiated and nutted out between all parties.

That is a wonderful objective but, given the practicalities of that and the sorts of divisions and angst I see in that five per cent of people—and no doubt they go to Deputy Speaker Hatton’s electorate office as well—it suggests that it will be a difficult path. But if it does happen, they can choose to come back to court to formalise that agreement so it can be enforced by the court. If there is still no agreement then the court must make orders contained in a parenting order. These parenting orders may include dispute resolution processes, living arrangements, responsibilities and contact with the parent and other relatives. That is certainly a welcome addition. In short, the orders may include any aspect of the care, welfare or development of the child. This order is subject to any subsequent parenting plan agreed to by the parents.

The court proceedings, we are told, must be child friendly, less traumatic and easy to navigate, and the assignment by the court of a case manager or a family consultant or a family dispute practitioner, as well as an independent lawyer to represent the child’s best interests, will be of great help to all those involved. So far so good. But, as is already well recognised, retribution and the parents’ own intractable self-interests can render any sort of agreement impossible. Consequently, the court is exempted from ordering counselling or dispute resolution from the outset if the court is satisfied on reasonable grounds that there has been or there is a risk of child abuse or family violence or entrenched conflict.

The reality of violence and fear or of entrenched conflict or child abuse all too often is a pivotal point in family break-ups. The bill recognises this by rightly including the need ‘to protect the child from physical or psychological harm, or from being subjected to or exposed to abuse, neglect or family violence’. This is a primary consideration that determines the best interests of the child at every step of the process, although I, too, would be more comfortable at seeing it placed above considerations of the benefit to the child of having a meaningful relationship with both of the child’s parents in the bill itself, as suggested by the opposition’s amendment. Given the overwhelming concern this issue generates, it would be helpful to emphasise the safety and wellbeing of the child as paramount for those affected parties reading the legislation itself.

This brings me to another issue of domestic violence or intimidation. As already expressed, there is a very real concern about the reporting by victims of domestic violence. The penalising of false allegations made by an applicant is appropriate. But when this is applied to the allegations of abuse or violence, we run a very serious risk that the victims of abuse—who are already in a position of loss of power and intimidation—may not disclose things because of what they perceive to be, and what realistically is, a terrible risk of not convincing the court that abuse has occurred, thus also suffering the consequences of penalties that may include fines, a bond or reduced rights within the resulting parenting order.
To counter this possibility, I would support amendments to allow a subjective definition of family violence by removing reference to what might be ‘reasonably recognised as a threat’ and adding ‘conduct witnessed by a child’ where a person intentionally causes physical or psychological harm to a member of the child’s family. Any reasonable person would agree that this is an appropriate amendment. I agree that any changes to the definition of family violence should be put on hold until we can consider the results of the recently announced review into violence in families and family law. I am happy to learn that this government has accepted the need to invalidate any parenting plans that are obtained under coercion or duress.

The aim of the legislation to promote the wellbeing of the child through shared parenting and meaningful roles by both parents is inarguably right. Language is a powerful tool that shapes and affects expectations and consequent actions, as will this bill and the words contained in it. Why, then, is the misleading term ‘equal’ used in relation to parental responsibility instead of the term that actually means what it says, ‘shared responsibility’? These words are in the title of the bill. This is an irresponsible use of language given the very serious context of this bill and its intent to guide people into approaching family break-up in a more cooperative way, without using the child as a weapon for retribution or control. The intent is given in the bill’s title—the Family Law Amendment (Shared Parental Responsibility) Bill. This needs to be consistent throughout the bill.

I am concerned, therefore, that the court is required to consider the making of an order for the child to spend equal time with each of the parents as a starting point for contact. This appears to directly contradict the explicit terms of reference for the inquiry that examined this bill:

The Committee should not re-open discussions on policy issues such as the rejection of the proposal of 50/50 custody in favour of the approach of sharing of parental responsibility. Regardless of that, considering that equal time should be both in the interests of the child and reasonably practical, it is highly unlikely that such an order would be made. Certainly, international research has shown that time split equally is not in the best interests of the child, and I assume those of us with children would understand the potential effect this could have on a child.

I again refer to the power of language in shaping expectations and intentions and wonder why this is seen as the starting point when a more appropriate term is used in the bill—‘consideration of substantial and significant time’. I take the point made by the previous speaker, who spoke of the distance that can develop between children and their non-resident parent, which is most often the father. I am aware of concerns about the lack of input by the father in some or perhaps many circumstances, but I really think it is unrealistic to work on a mathematical formula in this process. Time spent with the non-custodial parent does need to be substantial and significant, but it needs to be flexible enough to always maximise the best interests of the child.

Any such order must be in the best interests of the child and, sensibly, the court must consider the distance between parents’ homes, the capacity of parents to meet this arrangement, and importantly, their ability to communicate with each other to resolve consequent difficulties or other relevant matters. I also welcome the consideration of the child’s extended family being allowed the opportunity to spend important time with their grandchild, cousin or what have you. Inclusion in a wider family can be an important reassurance for children, especially
those who have lost continuing contact with the other parent.

The presumption of equal parental responsibility confirms the right of both parents to make decisions jointly about ‘major long-term issues’ around a child’s education, relocation of the child’s home, religious and cultural upbringing, health and name. It does not include the right of a partner to have input into decisions about the other partner entering a new relationship. The opposition’s amendment proposes to elevate this from a note into the body of the legislation, which emphasises this point. The word ‘responsibility’ surely underlines exactly what the best interests of the child are. However, responsibility can easily be confused with a right, and this, coupled with the presumption created by the word ‘equal’, could again provide a weapon for a manipulative partner to control and intimidate the other partner. I hope the other provisions within the bill will be sufficient to guard against this.

While the emphasis in the bill is to encourage cooperation between parties, it is realistic to ensure a compliance regime is in place to deal with repeated or serious breaches of parenting orders. The courts may already award compensation for reasonable expenses or appropriate legal costs to be paid to the other party. This bill will allow the court to also vary the parenting order as it sees fit, which may be a necessary revision in order to deal with the actual breach. For more serious contraventions, such as repeated harassment or removal of the child to another place against orders of the court, the court can still impose bonds and community service.

There is always the possibility that a breach in orders may occur for very valid reasons, so I am reassured that ‘the court must have regard to any kinship obligations, and child rearing practices, of Aboriginal and Torres Strait Islander culture’ in relation to parental responsibility. I hope this is extended to a similar cultural sensitivity in all other aspects of the new regime. I also support any amendments that take into account whether contravention is informed by a genuine belief that it was necessary for the health or safety of the person or their child. This is an important and realistic check to the compliance regime.

These reforms have bipartisan support, and I hope the proposed amendments will be considered and, indeed, accepted in good faith, for none of us would want to play politics with such matters. I remain concerned about the logjam in the court process. Only the other day a constituent detailed to me his absolute frustration at being unable to secure a court hearing until July or August this year—3½ years after interim orders were first put in place. He is concerned for the welfare of his children and wants his day in court to explain why those orders need adjusting. There is also deep frustration at the lack of legal aid and the huge expense involved in hiring lawyers for protracted legal proceedings.

There should be a shared parental responsibility but, as with the political mantra of the past decade of mutual responsibility, there is a collective responsibility for all of us to ensure we examine those policies or lack of policies that contribute to family breakdown. I mention the increasingly casualised and, in some places, fearful of job security workplaces and the lack and unaffordability of child care as two contributing factors.

Ten years on I want to make a note of thanks to Helen Bergen in my staff for the work she has put into this very complex legislation and my contribution to it and to all of my staff, Tim Mahony, Dianne Abbott, Eileen Webb, Brian Hustwayte and all those
other staff, supporters and constituents of Calare over those 10 years. I commend this legislation to the House.

Mr SLIPPER (Fisher) (10.23 am)—Listening to my colleague the honourable member for Calare thanking all of those people, who are undoubtedly worthy of thanks, one could image that he was giving his valedictory speech in this place. I do not know whether he has some news for us but, in any event, those people he thanked would undoubtedly be appreciative of the thanks that he expressed.

The DEPUTY SPEAKER (Mr Hatton)—I think the member for Fisher is being unnecessarily provocative.

Mr Andren—Mr Deputy Speaker, I rise on a point of order. I put on the record my thanks for the decade as has been done in many circumstances around this place in the last 24 hours. In no way is it a valedictory.

The DEPUTY SPEAKER—I would appreciate that, as would most members of the House.

Mr SLIPPER—we do not really want any unnecessary by-elections! There is no more difficult area of the law than family law because it involves not just legalistic concepts but also families, it involves breakdowns in relationships and it also involves ongoing relationships, particularly the ongoing relationship that separating parents have with their children.

It does not matter from which political perspective we approach this issue. All of us believe that it is important that separating parents ought to, as much as possible, have an ongoing relationship with their children. The children are, of course, Australia’s future and parents who are able to cooperate, even though their own personal relationship has broken down, are clearly performing a service not just for the country but, in particular, for their children. The bringing up of children is unfinished business and even though a relationship may have terminated between two adults, as much as possible, they ought to cooperate in bringing the children up to be responsible citizens.

Thus the framework of the Family Law Amendment (Shared Parental Responsibility) Bill 2005 seeks to, as much as possible, provide an environment where separating couples are encouraged to continue to work together to bring up their children. The honourable member for Calare in his contribution seemed to be critical of the committee which I chaired, the Standing Committee on Legal and Constitutional Affairs, suggesting that in some way we had breached the terms of reference given to us by the Attorney-General to look into the exposure draft of the bill which is now before the House in its current form.

The committee, in fact, very closely observed the terms of reference and we suggested that the court ought to look, as a starting point, at equal time. We were not suggesting that it was a rebuttable presumption; all we were saying was that we were concerned that so often the words ‘substantial’ or ‘significant’, which were the words used by the member for Calare, could, in the minds of courts, be a very small portion of time. We wanted to create the reality and to point out to the courts that there was an expectation that they would, as a starting point, consider equal time. This does not mean that they are compelled to award equal time and in very many circumstances equal time would not be appropriate. But it is important that the courts take that matter into consideration. If we are able to bring about an environment where loving parents—even though they are not able to be together and even though their own relationship has collapsed—are able to spend more time with their children then the children will be very much better off.
When the committee looked at the exposure draft I was very pleased at the bipartisan manner in which members of the committee worked together. The report was not unanimous. There was one dissenter and that was the honourable member for Gellibrand. The other members of the Labor Party joined the majority and supported the recommendations. There was an expression of concern by Labor members in relation to some aspects of family relationship centres but the core elements of the report and the bill were supported by all members. In fact, even the member for Gellibrand supported most of the recommendations of the committee. I think she pointed that out to the House in her contribution.

This bill, as has already been mentioned, perhaps makes the most major changes to family law since the Family Law Act came in in 1975. The Family Law Act 1975 brought in no-fault divorce and brought in a whole new set of concepts. It took quite some time, I am told, for the legal profession and the community generally to adjust. The examination of the exposure draft of the bill through mid-2005 was perhaps one of the most emotional investigations conducted by the House of Representatives Standing Committee on Legal and Constitutional Affairs for some time. We received a huge number of submissions and most of them—in fact, all of them really—were speaking from the heart. We had fathers who felt that they had received a rough deal through the courts; we had mothers who were concerned about domestic violence. The committee endeavoured to bring down a balanced report. I have to say that we were particularly pleased when the government overwhelmingly accepted the recommendations of the standing committee.

The government and the committee are both desperately aware of the need to limit the harm done to children during separation. The member for Calare and other honourable members have referred to the interests of the children being paramount and that is the basic concept of the Family Law Amendment (Shared Parental Responsibility) Bill 2005. Whatever is actually included in the bill is, quite naturally, subject to the fact that the interests of the children must be paramount. I do not think any reasonable person could deny that the interests of children should be paramount, but we were endeavouring to encourage the courts to perhaps take a fairer approach to the interests of children and parents. I repeat that we believe that it really is important that parents are able to have a parenting plan and to cooperate on unfinished business—that, of course, is the upbringing of the children of a marriage or relationship.

The bill aims as much as possible to move separation out of the courts and to instead encourage mediation and discussion to find solutions. This is less costly than the court system and aims to reduce the instances of additional financial pressures on what is already a difficult and very high stress situation.

The honourable member for Calare pointed out—I think, quite fairly—that there were untoward delays in the Family Court. I believe under the new Chief Justice of the Family Court those delays are probably fewer than they were. Certainly, the Chief Justice is well aware of the not entirely satisfactory record of timeliness of the Family Court and no doubt she is addressing that matter. I recall with some concern how Family Court judges were sent to Timor at one stage to help them with their family law situation. Timor has lots of problems, but I would not have thought that it should have been a top priority for the Family Court of Australia to send judges into the jurisdiction of that newly-free country. We have also heard of instances where judges have not
given a judgment and couples have suffered as a result of that lack of timeliness.

The bill aims to offer some protection to those who are most vulnerable in times of family break-up—they, of course, are the children. If we are able to reduce the psychological damage that often accompanies a break-up, then we are contributing to the development of well-balanced adult members of our society. The draft bill that was examined last year aimed to support and promote shared parenting and to encourage people to reach agreement about the parenting of children after separation. That is the core value at the heart of the Family Law Amendment (Shared Parental Responsibility) Bill 2005. It also sought to continue to encourage the involvement of both parents. Mention has been made by other honourable members of violence, and the bill also recognises the need to protect children from family violence and abuse and aims to ensure that the court process is less traumatic.

As I said earlier, the committee received a large number of submissions, even after the closing date. We tried to take into account as many as we could. It is important to recognise that this is an outstanding bill, and I commend the Attorney-General, who has just come into the chamber, for the way in which he has brought so many of the recommendations of the committee into the bill we are currently considering.

The family unit remains the most important building block of society; it is the foundation on which a society is built. A shaky foundation of crumbling families equates to an equally shaky society. There are numerous anecdotes that indicate that if parents are able to work together after separation then the trauma of a separation does not impact as grievously on children. The provisions of the bill are supported by the introduction of 65 family relationships centres. I thank the member for Gellibrand for her support of the government’s initiative on these family relationships centres. I think they are geographically well scattered. I hope that there will be sufficient access to them for people around the country. No doubt these family relationships centres will assist many couples who have separated. The family relationships centres are included in a $400 million investment by the Australian government over a four-year period that is directed at improving the stability of families and giving support and advice to those couples who believe they have exhausted all options and must separate.

I understand that there has been some arrangement with the whips that one ought to limit one’s contribution in this debate to 10 minutes. I see that I am just about out of time. I mentioned earlier that the Attorney-General accepted most of the recommendations of the committee. In fact, I gather he accepted some 50 of the 59 recommendations. This bill aims to encourage separating parents to sit down and rationally discuss and plan the future care of their children. I think that the Family Law Amendment (Shared Parental Responsibility) Bill is a very important step forward. As a member of this parliament, I feel an enormous sense of satisfaction that this bill, when enacted, will vastly improve the situation of separating families, will vastly improve outcomes for children of separated families and will make a very positive contribution to the welfare and wellbeing of Australian society. I commend the bill to the House.

Mr RUDDOCK (Berowra—Attorney-General) (10.35 am)—I thank all of the honourable members for their contributions to this debate on the Family Law Amendment (Shared Parental Responsibility) Bill 2005. The issues are of course of great concern. I am very aware of these matters. One of my early tasks as a member of this House was to
chair a joint select committee reviewing the Family Law Act. Maybe one day—I hope I will not be blamed too much for it—I will be seen as the architect of the Child Support Scheme. Many recommendations that came from that review were accepted. We reviewed the work of the Family Law Council and other advisory bodies and came to a considered view. The government then sent our work off to be reviewed by the Family Law Council. We found in the end that we had the lowest common denominator result—whatever was acceptable to both. It had a very significant impact on me. I hope the shadow Attorney-General will observe this. I came to the view that when members of parliament focus on a very important area of policy, put the work in and come to considered conclusions the government ought to take them seriously. That is the view I came to as a result of my own experience working in the parliamentary committee system.

The development of this bill has been the product of many members on both sides of the House. The driving force behind those reforms comes, to a significant extent, from the work done by the former House of Representatives Standing Committee on Family and Community Affairs, whose chair was my colleague Kay Hull, the member for Riverina. I thank her very much for her contribution. She has lost none of her passion for the reforms she helped to create and I saw that in the speech she made. I also acknowledge the work of other members, including the member for Fowler, the member for Mitchell, the member for Makin, the member for Dickson, the member for Cowan, the member for Throsby, the member for Aston, the member for Chifley, the member for Franklin—I acknowledge you, Mr Deputy Speaker Quick—and the member for Blair. This bill is very much the genesis of the work done in the report Every picture tells a story.

The bill was also improved by the work of the House of Representatives Standing Committee on Legal and Constitutional Affairs, under the chairmanship of the member for Fisher. I acknowledge the work of members of that committee, including the member for Lowe, the member for Riverina, the member for Denison, the member for Banks, the member for Indi, the member for Gellibrand, the member for Barker, the member for Solomon, the member for Wentworth, the member for Mitchell and the member for Chifley. Both of these committees have produced largely bipartisan reports. That is very valuable when it can occur. It will not always occur, but it is valuable when it does occur.

This is an area of public policy of enormous interest and that is why we have had so many speakers on the bill in this House and in the Main Committee. I thank the government members of the family relationship centres task force for their work, including the member for Wakefield, the member for Deakin, the member for Moncrieff, the member for Bass, the member for Greenway, the member for Riverina, the member for Stirling and the member for Lindsay. I am very appreciative of the enormous work that has been undertaken.

While there has been some complaint from the opposition that the task force should have been bipartisan, I point out that at a time when the opposition has set up a bipartisan committee to oversee the implementation of reforms that involve other members—I would like to be able to count those; I do not think I would find many—there is a significant degree of interest in the implementation of this initiative, particularly in relation to family relationship centres. It was not quite the model suggested by the committee, but it picks up many of its features. The implementation is something in which government members expressed a real inter-
est, and I thought they should be allowed to help me in the implementation task.

In relation to all of this work there have been thousands of submissions and hundreds of people have given oral evidence. I would like to thank the community for taking the time and effort to be involved in this process. I hope this will be seen as important and fundamental reform—a shift in the way people see family law issues—and I hope it will be seen to have been driven by a genuine desire to see reform in the community.

I should emphasise that this bill is part of the reform agenda. As the member for Wakefield said in this debate, we have a holistic approach to reform based upon the new family relationship centres and the expansion of other services. These reforms to the Family Law Act and the major changes to child support announced yesterday are part of that holistic approach. The child support changes, like this bill, support shared parenting. They recognise the contribution that both parents make to the care of children. There are also reforms to court processes, including a combined registry for the Family Court and the Magistrates Court.

It is not my intention to revisit every aspect of these changes. However, I think a number of the points which have been raised in this debate warrant a response. First, let me turn to the issue of family violence. The member for Gellibrand stated her opposition to the government’s reform of the definition of ‘family violence’ to introduce an element of reasonableness to the apprehension of fear or violence. She cited the fact that the government has commissioned new research on family violence as part of its Family Law Violence Strategy and as evidence that the government was acting prematurely.

The government’s intention is for this strategy to lead to an improved set of processes which will complement, not revisit or replace, the new laws. I assert very positively that the terms of the changes we are making demand that we implement them now and not wait for a further inquiry before amendments. These changes are, in the words of the member for Riverina, the product of ‘a report, a response to the report, an inquiry into the response and a response to the inquiry on the response to the report’. As noted by the colleague of the shadow Attorney-General the member for Throsby, these reforms are ‘not before time’.

The member for Gellibrand also flagged Labor’s concern that the incidence of using costs within the family law jurisdiction risks turning family law into a costs jurisdiction. I suspect that many parties before our courts at the moment would be very surprised to learn that it is not a costly jurisdiction. The question is: who should pay those costs? In cases where proceedings are the result of a party’s disregard of court orders or of false allegations of violence, the government thinks it only just that costs orders should be able to be made where appropriate against the party responsible.

We agree with the member for Gellibrand that family relationship centres are critical to the success of our reforms. The government is providing the largest ever investment in the family law system with more than $397 million over four years to give parents the support they need to do the best for their children. The quality of services provided by the centres is of utmost importance. The centres will be required to deliver high-quality, timely, safe and ethical services. Contrary to some of the statements by those opposite, the success of the centres will not be judged simply on how many clients are ‘churned’ through the system. The qualitative assessment of services will be part of the assessment process, but that does not mean you should not also make quantitative judgments. The member for Gellibrand should actually...
read the key performance indicators before criticising them. Objective 3 requires quality services and the key performance indicators refer to qualitative outcomes.

Some members opposite have raised concerns that the accreditation rules for staff of the centres and the complaints processes are not yet in place. The government has funded the Community Services and Health Industry Skills Council to develop a set of competency based accreditation standards that will apply to family counsellors and family dispute resolution practitioners. The council should be allowed to do that work. Its expertise should be relied upon. When you have asked such an independent body and such a respected body to do that work, it would be unreasonable and inappropriate to suggest at this stage—some months off—that they be on the public record. The skills council aims to complete this project by mid-2006, around 12 months before the commencement of the requirement for people with new parenting disputes to attend compulsory dispute resolution from July 2007 and two years before all people with parenting disputes will be required to attend compulsory dispute resolution from July 2008. With such a comprehensive process in place, the government rejects any suggestion that some sort of ad hoc accreditation rules should be introduced in haste. In the meantime, the current requirements for qualifications, training and experience for mediators set out in the Family Law Regulations of course continue to apply.

The member for Gellibrand referred to the need for a complaints process for family relationship centres. Family relationship centres will be required to have an internal complaints procedure in place, which must be prominently displayed in each of the centres. Some members opposite raised concerns that the location of family relationship centres was chosen on the basis of political benefit. As I have said before, if you want to look at how Labor did this sort of work, look at how migrant resource centres were placed.

Ms Roxon interjecting—

Mr RUDDOCK—We are not closing migrant resource centres, as I understand it. The location of these centres was determined by me on the basis of advice provided by my department. That included information about the numbers of families and separating families, information identifying transport routes and other objective data which would help in the making of those decisions. The government members family relationship centres task force was not consulted. It played no role in those matters. I made the decisions. People who know me know that when I am given the opportunity to make decisions I will do so on a proper basis, I will take the decisions myself and I will be accountable for those decisions. This was not a matter in which members were in a position of conflict in influencing decisions when their electorates may have been among the areas considered.

The criticism of the opposition of the tender process for family relationship centres is equally unfounded. The tender process for the selection of organisations to run the family relationship centres is open and transparent and has been conducted in accordance with best practice. While the government task force did comment on the draft selection documents before the process began, it is not involved in any way in the actual selection process—and that has been made very clear—or in deciding which organisations should be selected to run those centres. Those decisions will be taken by officers of my department in developing the recommendations which I will ultimately approve.

I should also deal with the issue that was raised by the honourable member for Gellibrand concerning the Hillsong Church. Hill-
song were made an offer under the Community Crime Prevention Program, run by my colleague the Minister for Justice and Customs, but that offer was later withdrawn. There was no contract with them and no moneys were ever paid.

Let me turn to the assertions by some members opposite that the government is in danger of creating ‘false expectations’ with its family law reforms. Far from trying to create false expectations about family law reforms, the government has provided $5.7 million over two years to develop and implement a community education campaign to raise awareness of the changes and the reforms to the family law system. The campaign will be based upon market research to ensure that people receive information about the changes in a format that is most appropriate for them.

This bill reflects the government’s desire to change the culture around family breakdown and to ensure that as many children as possible grow up in a safe environment with the love and support of both their parents. We hope that in future many of the stories that we see coming from the family law system will be very different. This bill will implement the most significant reforms to family law in some 30 years, reforms which I hope will deliver a better, fairer, faster system for the benefit of families.

I thank honourable members for their contribution to this debate. I appreciate very much the work of those who on a bipartisan basis committed themselves to examining these reforms and have supported them. I have genuinely taken into account their views and the comment they made that some of the original propositions that I put ought to be more acceptable. I make the point that I do have regard for the bipartisan work of colleagues. I think it is worthy of consideration and I will always give it that. I might also say to the honourable member for Gellibrand that I believe the parliamentary committee system does not just exist in the Senate and that members of the House of Representatives can make very valuable contributions. It may be fine for the Senate to want to second-guess members of the House of Representatives, but I will not necessarily be falling over backwards, unless I am persuaded, to adopt further changes. I thank all those members who have contributed so positively to this debate.

The DEPUTY SPEAKER (Mr Quick)—The original question was that this bill be now read a second time. To this the honourable member for Gellibrand has moved as an amendment that all words after ‘That’ be omitted with a view to substituting other words. The question now is that the words proposed to be omitted stand part of the question.

Question agreed to.

Original question agreed to.

Bill read a second time.
Amendment (1) is a critical issue of difference between the government and the Labor Party. It does not go to the wide-ranging aspects of the bill which, as the Attorney mentioned in his summing up, the Labor Party is very supportive of, but it does go to a critical issue where we think the government is taking us down the wrong path—that is, the definition being used for family violence. This amendment would keep the definition of family violence in its current form in one part and in another part would ensure that ‘conduct, witnessed by a child, in which a person intentionally causes physical or psychological harm to a member of the person’s family’ would be included in the definition of family violence.

We think it is incredibly important that, if you are going to change the definition of violence, you are sure that you are changing it in a way that will provide more protection, not less, to people who are in very difficult circumstances. We do not believe that sufficient work has been done to insert ‘reasonable’ before ‘apprehension’ in this provision. Although the Attorney-General puts considerable weight on the work of the House of Representatives Standing Committee on Legal and Constitutional Affairs, I think all of the people on that committee would agree that we were put under a very tight timetable by the minister—six weeks. We did not have any expert advice from the department or others relating to family violence and the consequence of changing this definition. That is no criticism of the department; it is because it was a change that was thought up, with good will, by committee members but without there being a clear understanding of the wide range of implications that could flow from it.

I might say that there is the potential—as the Attorney would know and other speakers might have referred to—to change the definition of violence to one that might be better if there is a concern that using this subjective definition disadvantages people against whom an allegation is made. In fact, all of the states have definitions which focus on the conduct of the party, not the impact on a victim, although some have a combined test with both objective and subjective components. Sufficient work was not done on this area. A proposal has not been made that has been thoroughly thought through. We do not believe it is appropriate in those circumstances to change the definition; therefore, our first amendment proposes to keep the definition in its current form, with the addition of making sure that ‘conduct, witnessed by a child’ is included in the definition.

We believe this is an area where the Senate Legal and Constitutional Legislation Committee, having been set up with the agreement of the government, could potentially take the time to consider the options that apply in different states. Certainly the Labor Party has an open mind about that, but we strongly feel that it is not appropriate to change the definition without understanding the consequences it might have and putting families that are in a vulnerable position at risk. That is why we feel so strongly about this particular issue. It is no disrespect to the other members of the LACA committee, who really were not given sufficient time by the government nor the resources that would have been necessary for us to really be sure that this change will not harm people.

I am very wary in this House that many speakers said that they are not 100 per cent convinced about the direction in which the bill is going but that they think it is a good change because people are not happy with the system as it is. I think the members for Denison and Lindsay and a number of others
basically summed up their position as, ‘Let’s suck it and see whether these changes are going to work.’ I think that is a respectable position to put in a lot of the other areas where we know there are social changes and where there has been significant debate over the direction we are taking. I am not prepared to suck it and see when the consequences on the issue of violence could be so severe. We do not lose anything by taking a little more care in keeping the current definition in place and only changing it when we are satisfied that the definitions are workable. That argument might more easily be made if we were adopting a state definition or some combination of objective and subjective tests, but that is not happening. We feel very strongly that it is our obligation in the parliament not to change the law in a way which might make vulnerable people even more vulnerable. It is for that reason that I have moved amendment (1).

Mr RUDDOCK (Berowra—Attorney-General) (10.57 am)—Let me make it very clear that we are implementing a recommendation of the Standing Committee on Legal and Constitutional Affairs in relation to the definition of family violence. I am surprised at the comments of the shadow Attorney-General, because I think they are a reflection upon the diligence and competence of her colleagues who supported that resolution, and I am surprised that she, as a member of the committee, could not convince the committee, on the basis that more time was needed, that the Labor members of the committee should oppose the recommendation. But obviously she did not because this recommendation was supported by her colleagues on the committee, and it is a reflection upon them, it seems to me.

Let me say that this is not an issue that has been lightly accepted. My department consulted with key stakeholders on this matter. I turned my mind to the opposition’s approach, which simply removes reasonableness and revisits issues on which the committee had come to a concluded view. I think it also fails to recognise that, for instance, in South Australia legislation contains a definition that is similar to that proposed here. I think there are misconceived arguments by the opposition in supporting this proposal. The member for Gellibrand says that the courts have to get into the very tricky business of deciding what conduct would scare a reasonable person. I am advised that the Family Court, under the current law, looks at the extent of evidence to assess whether such a fear or apprehension is credible. Courts have to deal with these issues all the time—

Ms Roxon—So why do we need to change it?

Mr RUDDOCK—Because we want them to do it on the basis that there is a reasonable apprehension. I am simply saying that courts have to make a judgment all the time in relation to these sorts of questions. They have to deal with a whole range of issues of reasonableness in a whole range of circumstances.

The member for Gellibrand says that the amendment does not provide scope to consider the particular circumstance of the victim. The member for Sydney even gave an example of a constituent whose ex-husband engaged in repeated acts of violence and suggested these acts of violence would not be admissible in assessing the reasonableness of her fear of violence by him to her. This is simply not true. It is the reasonable person in the shoes of the victim that the court must consider, not some notional reasonable person.

Thirdly, the member for Gellibrand states that, when it comes to mediation, frankly it does not really matter whether or not one person’s fear is reasonable—that even an unreasonable fear will affect the power balance between the parties. It is simply not fair
of us to force people into mediation if they are absolutely terrified, but it does matter whether one person’s fear is reasonable. If you do not have an objective test, people can claim what they want. A person who has never been exposed to violence in their life can claim fear of violence however irrational it may be. That person would then be able to avoid the family dispute resolution requirement.

The government amendment will allow a family dispute resolution practitioner to consider whether the ability of the party to negotiate freely is affected by issues such as history of family violence, the likely safety of the parties and the risk that a child may suffer abuse. If, after considering these matters, the practitioner considers that it would not be appropriate to conduct the proposed family dispute resolution, he or she may issue one of the new certificates.

It is also not appropriate to add the additional element to cover a child witnessing violence. This was also considered by the LACA committee. They did not see merit in adding to the existing definition. This amendment is not necessary, as the existing definition would cover the situation where exposure to violence causes a child to fear or be apprehensive for their own safety. The government rejects the amendment.

Question put:
That the amendment (Ms Roxon’s) be agreed to.

The House divided. [11.05 am]
(The Deputy Speaker—Mr Quick)

Ayes............ 53
Noes............ 80
Majority........ 27

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

NOES
Anderson, J.D. Andrews, K.J.
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.J. Broadbent, R.
Brough, M.T. Cadman, A.G.
Causley, J.R. Cibobo, S.M.
Costello, P.H. Dutton, P.C.
Elson, K.S. Entsch, W.G.
Farmer, P.F. Fawcett, D.
Ferguson, M.D. Forrest, J.A. *
Gambharo, 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.
Jull, D.F. Keenan, M.
Kelly, D.M. Kelly, J.M.
Laming, A. 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.
Thursday, 2 March 2006

Ms ROXON (Gellibrand) (11.11 am)—I move amendment (28):

(28) Schedule 1, item 11, page 13 (after subsection (6) (after line 15) insert:

'(6A) Subsections (7) to (12) do not apply unless a sufficient appropriation is in force to ensure that every person who seeks a certificate referred to in subsection (7) (demonstrating attendance at family dispute resolution) may receive three hours of family dispute resolution services wholly funded by the Commonwealth.'

This amendment seeks to put into law a commitment that the government have made to provide three hours of free mediation for families who are going through family breakdown. This is something that the government committed to in the budget but refuse to put into law. We believe that if this is a serious commitment from the government then they will be prepared to put this amendment into law and promise to the public that their commitment to provide three hours of free counselling and mediation will be a rolled gold commitment.

After 10 long years, we on this side of the House have become used to identifying what are core and non-core promises by the Howard government. We do not feel satisfied that this is a commitment that the Attorney is going to keep. We are told to trust him. That is not sufficient for us. The government said that it would introduce compulsory mediation while at the same time ensuring that the public would be able to have three hours of mediation paid for by the government—and we welcome that. As we are going to go down the path of having compulsory mediation, that commitment should be put into the law.

We are not confident that we can simply accept a promise made by the Attorney of the day and think that in two, three or five years time the government—either of the coalition’s colour or our colour—will necessarily keep that commitment. We want to make sure that when introducing compulsory mediation we tie it to a legislative commitment that that free consultation will be made available to the public.

It is a very simple amendment. We do not see how the government can oppose it—it is its policy; it is in its budget material. If the government is serious about the promise that it has made to the public, it has no reason to vote against this amendment. If the Attorney is determined to have each and every member on his side of the House come in and vote against the provision of three hours of free mediation, let it be on his head how we use that in the community. This is something that is government policy; it is something that it should be prepared to commit to. There is no reason not to put it in the Family Law Amendment (Shared Parental Responsibility) Bill 2005. We call on the government to support this amendment, because it puts into law a commitment that it made through the budget. We support that commitment, but we want a guarantee. We are not prepared to just take you at your word, Attorney; we want this to be in the legislation.

CHAMBER
Mr RUDDOCK (Berowra—Attorney-General) (11.14 am)—I notice the honourable member had some comments to make about my bizarre behaviour, but I will make this point in relation to the amendment proposed: it would be a rather unique legislative course of action if we were to agree to such an amendment. I do not recall amendments being introduced by Labor governments in office in relation to commitments they made and commitments that they intended to keep. In doing so, we would be binding future governments and introducing a degree of inflexibility that I would not be prepared to accept. But if the honourable member is saying that she is going to go out, distort and suggest that, because this amendment is not accepted for the reasons I have outlined, that suggests some sort of lack of commitment on our part—

Ms Roxon—Well, doesn’t it?

Mr RUDDOCK—No. It indicates how she is prepared to distort information provided on the public record and which is clear and unambiguous. I do not think it is worthy of you. We oppose the amendment.

Question put:

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

The House divided. [11.19 am]

(The Deputy Speaker—Mr Quick)

Ayes……………….. 53

Noes……………….. 78

Majority…………… 25

AYES

Adams, D.G.H. Albanas, A.N.
Andren, P.J. Bevis, A.R.
Bird, S. Bowen, C.
Burke, A.E. Burke, A.S.
Byrne, A.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. 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.
McMullan, R.F. Melham, D.
Murphy, J.P. O’Connor, B.P.
Owens, J. Plibersek, T.
Price, L.R.S. * Rudd, K.M.
Roxon, N.L. Sercombe, R.C.G.
Sawford, R.W. Snowdon, W.E.
Smith, S.F. Tanner, L.
Swan, W.M. Vamvakinou, M.
Thomson, K.J. Wilkie, K.

NOES

Anderson, J.D. Andrews, K.J.
Bailey, F.E. Baird, B.G.
Baker, M. Balding, 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.
Causley, I.R. Ciobo, S.M.
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. Hockey, J.B.
Hunt, G.A. Hull, K.E.
Johnson, M.A. Jensen, D.
Keenan, M. Jul, D.F.
Kelly, J.M. Kelly, D.M.
Lindsay, P.J. Laming, A.
Macfarlane, I.E. Lloyd, J.E.
May, M.A. Markus, L.
McGauran, P.J. McArthur, S. *
Nairn, G.R. Moylan, J.E.
Panopoulos, S. Neville, P.C.
Prosser, G.D. Pearce, C.J.
Randall, D.J. Pyne, C.
Robb, A. Richardson, K.
Schultz, A. Ruddock, P.M.
Secker, P.D. Scott, B.C.
Smith, A.D.H. Slipper, P.N.
Somlyay, A.M.
Ms ROXON (Gellibrand) (11.24 am)—by leave—I move amendments (39) and (40) together:

(39) Schedule 1, after item 16, page 20 (after line 8) insert:

16A After paragraph 63C(1)(c)
Insert:
(d) the cooling-off period referred to in subsection (1A) has expired.

16B After subsection 63C(1)
Insert:
‘(1A) A cooling-off period is a period of seven days after a parenting plan is made, revoked or varied during which either party may advise in writing that he or she does not wish to make, revoke or vary the parenting plan and the parenting plan is not made, revoked or varied as the case may be.’

(40) Schedule 1, page 21, after item 17, insert:

17A Section 63D
Repeal the section, substitute
63D Parenting plan may be varied or revoked by further written agreement
(1) A parenting plan, other than a plan to which section 63D applies, may be varied or revoked by agreement in writing between the parties to the plan.

(2) Any variation or revocation under subsection (1) takes effect after the cooling-off period has expired.

The Attorney and government should have absolutely no problem in accepting these amendments. They reveal the hypocrisy of the Attorney’s view so far, which is that, no matter what his original opinions were, he is now just respecting the recommendations of the LACA committee. That is why he has a different view from me and from his original view on a number of the other amendments. In this case, the amendments are exactly what was recommended by the LACA committee. Recommendation 33 dealt with a cooling-off period.

The amendments provide for a cooling-off period. When parenting plans are reached without the parties necessarily having any advice or legal counselling from a family relationship centre or elsewhere, there is a seven-day cooling-off period. The LACA committee considered this and recommended that it was a good way of ensuring that people were not making a decision on the long-term benefits of their children at a vulnerable time or in the heat of the moment and that if, on reflection, they realised that they had made a bad decision or agreement that was not in the interests of their children they would not be bound by that agreement.

This is a specific provision which allows for a seven-day cooling-off period. It has been recommended by the committee. The Attorney says that he respects the views and recommendations of colleagues on the committee. Accordingly, I call on him to support these amendments or else show himself to be quite hypocritical on this matter.

Mr RUDDOCK (Berowra—Attorney-General) (11.26 am)—I will deal with the amendments on their merits. As the honourable member knows, from time to time I have even accepted some of the ideas that she has proposed. In this case, I do not consider it necessary to include a cooling-off period—

Ms Roxon—You don’t agree with your colleagues.

Mr RUDDOCK—No, I consider on the argument—

Ms Roxon—You’re a hypocrite.
The DEPUTY SPEAKER (Mr Quick)—
The honourable member will withdraw that comment.

Ms Roxon—Mr Deputy Speaker, I withdraw.

Mr RUDDOCK—It is a question of argument. Parenting plans are voluntary agreements. They are not contracts; they can be changed at any time. I believe that parents who can make their own agreements and who can change their own agreements do not need cooling-off periods—end, game, match. That should have been a matter that the member would see quite clearly.

Question put:
That the amendments (Ms Roxon’s) be agreed to.

The House divided. [11.31 am]

(The Deputy Speaker—Mr Quick)

| AYES | 55 |
| Noes | 77 |
| Majority | 22 |

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. 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. 
Geogannis, 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. McMullan, R.F. 
Melham, D. Murphy, J.P. 
O’Connor, B.P. Owens, J. 
Pilcher, 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. 
Vamvakopoulos, M. Wilkie, K. 
Windsor, A.H.C.

NOES
Anderson, J.D. Andrews, K.J. 
Bailey, F.E. Baird, B.G. 
Baker, M. Baldwin, R.C. 
Barresi, P.A. Bartlett, K.J. 
Bishop, J.J. Bishop, B.K. 
Brough, M.T. Broadbent, R. 
Causley, I.R. Cadman, A.G. 
Dutton, P.C. Ciobo, S.M. 
Entsch, W.G. Elson, K.S. 
Fawcett, D. Farmer, P.F. 
Forrest, J.A. Ferguson, M.D. 
Gash, J. Garbaro, T. 
Haase, B.W. Georgiou, P. 
Hartsuyker, L. Hardgrave, G.D. 
Hockey, J.B. Henry, S. 
Hunt, G.A. Hull, K.E. 
Johnson, M.A. Jensen, D. 
Keenan, M. Jull, D.F. 
Kelly, J.M. Kelly, D.M. 
Lindsay, P.J. Laming, A. 
Macfarlane, I.E. Lloyd, J.E. 
May, M.A. Markus, L. 
McGauran, P.J. McArthur, S. * 
Nairn, G.R. Moylan, J.E. 
Panopoulos, S. Neville, P.C. 
Prosser, G.D. Pearce, C.J. 
Randall, D.J. Pyne, C. 
Robb, A. Richardson, K. 
Schultz, A. Ruddock, P.M. 
Secker, P.D. Scott, B.C. 
Smith, A.D.H. Slipper, P.N. 
Southcott, A.J. Somlyay, A.M. 
Thompson, C.P. Stone, S.N. 
Tollner, D.W. Ticehurst, K.V. 
Tuckey, C.W. Truss, W.E. 
Vaile, M.A.J. Turnbull, M. 
Vasta, R. Vale, D.S. 
Wood, J. Washer, M.J. 

* denotes teller

Question negatived.
Ms ROXON (Gellibrand) (11.36 am)—by leave—I move amendments (2), (38) and (54) together:

(2) Schedule 1, item 4, page 5 (lines 6-12), omit the note, substitute

Note: To remove any doubt, a decision by a parent of a child to form a relationship with a new partner is not a major long-term issue in relation to the child.

(38) Schedule 1, after item 15, page 20 (after line 4) insert:

15A Paragraph 63C(1)(b)

Repeal the paragraph, substitute

'(b) is or was made between the parents of a child free from any threat, duress or coercion; and’

(54) Schedule 6, item 1, page 134 (after line 15) insert:

‘(ab) to ensure that orders, injunctions and arrangements referred to in subparagraph (a)(ii) do not expose people to family violence; and’.

These three amendments deal with issues that the government agrees with. They were part of a range of amendments that were provided to the government a couple of weeks ago. I am very pleased that the government has seen the benefit of including these amendments in the bill. The Attorney might be able to assist on whether he intends to vote for these amendments or intends including them in his package of amendments which will be moved later. In any case, I think it is important to acknowledge these changes and to acknowledge that a number of Labor’s suggestions are practical ones and are important things to include in the legislation and that the government has been prepared to accept them.

In particular, two of these changes deal with a number of our concerns that relate to violence and, as people in this House know, it has been a major concern for us to have these matters included in the legislation. One is to ensure that, if a parenting plan is made under threat, duress or coercion, it would not be regarded as valid. Because we do have a large number of self-represented litigants in this jurisdiction, I think it is important to have that expressly provided for in the act. It makes clear that a parenting plan must be freely agreed to between the parties, not under some sort of threat, force or fear. I am pleased that the government has seen fit to include that provision in the amendments to this legislation.

The other two amendments deal with major long-term issues—moving something that is in a note into the provision itself to ensure that it is being given some force, and clarifying a definition, which it seems might have been changed through redrafting rather than by any intent, so that it is an object of the act that ‘people’ should not be exposed to violence. Whilst many of the provisions deal specifically with children—our priority in family law is to deal with the protection of children—it is of course a clear objective of everybody in this House to ensure that we do what we can to protect people, not just children, from violence. I am pleased that the government has indicated that it will agree to these three amendments.

Mr RUDDOCK (Berowra—Attorney-General) (11.39 am)—Let me just make the point that we do not object to the principle behind the amendments. But the government will be pressing ahead with the amendments that I will be moving later, as outlined in the package, rather than accepting these amendments. The reason for this is very clear. Although the amendment proposed makes a note which currently appears under the definition of ‘major long-term issues’ a legislative provision, doing this will have little effect, but it may assist in making clearer the intention that repartnering is not of itself a major long-term issue. Particularly for non-represented parties, having it in the act may
put it beyond doubt in their minds, even though it does not have any legal import.

Regrettably—and I do not know whether one should draw any inferences from this—the opposition amendment does not simply take the note and translate it into a legislative provision. It makes minor changes to the note. In addition, we do not accept those changes. That is why we are pressing ahead with the direct incorporation of the note in the legislative measure rather than, by implication, picking up further amendments, which I do not think were being proposed in an up-front way.

The government amendments also adopt a proposed opposition amendment to section 63C, which is the section that sets out what a parenting plan is for the purposes of the act. We do not believe the amendment is necessary, but it confirms the common law position that a parenting plan must be free from threat, duress or coercion. Government amendment (24) implements the views that I have received from a number of stakeholders that an objective of division 11 orders—which are orders to address inconsistencies between state family violence orders and family law orders—is to make it clear that the government’s policy of family violence not being tolerated is the approach to be taken. I oppose the opposition’s amendments for the reasons I have outlined, but I will be proposing separate amendments that I believe deal with the substantial issues.

Ms ROXON (Gellibrand) (11.41 am)—I would like to comment briefly on the Attorney’s indication that the substance of these provisions in the amendments proposed by the opposition will be agreed to. I understand his comments that they will be moved as part of the government amendments. At least one person whom I heard in the House rather cheekily said he thought the Attorney and I were behaving like a divorcing couple over some of these amendments. The Attorney’s determination not to accept our amendments but to have his indicates that it has become a little petty. I am quite prepared in the spirit of mediation to accept that the government will move the amendments in the terms that they see fit on these three items.

Question negatived.

Ms ROXON (Gellibrand) (11.42 am)—by leave—I move opposition amendments (3) to (26) together:

(3) Schedule 1, item 9, page 8 (line 6) omits ‘Primary considerations’.
(4) Schedule 1, item 9, page 8 (line 7), omits ‘primary’.
(5) Schedule 1, item 9, page 8 (lines 13-14), omits the note.
(6) Schedule 1, item 9, page 8 (line 15) omits ‘Additional considerations’.
(7) Schedule 1, item 9, page 8 (line 16) omits ‘(3) Additional considerations are:’.
(8) Schedule 1, item 9, page 8 (line 17) omits ‘(a)’, substitutes ‘(c)’.
(9) Schedule 1, item 9, page 8 (line 22) omits ‘(b)’, substitutes ‘(d)’.
(10) Schedule 1, item 9, page 8 (line 25) omits ‘(c)’, substitutes ‘(e)’.
(11) Schedule 1, item 9, page 8 (line 28) omits ‘(d)’, substitutes ‘(f)’.
(12) Schedule 1, item 9, page 9 (line 1) omits ‘(e)’, substitutes ‘(g)’.
(13) Schedule 1, item 9, page 9 (line 6) omits ‘(f)’, substitutes ‘(h)’.
(14) Schedule 1, item 9, page 9 (line 12) omits ‘(g)’, substitutes ‘(i)’.
(15) Schedule 1, item 9, page 9 (line 16) omits ‘(h)’, substitutes ‘(j)’.
(16) Schedule 1, item 9, page 9 (line 23) omits ‘(j)’, substitutes ‘(k)’.
(17) Schedule 1, item 9, page 9 (line 25)
omit ‘(j)’, substitute ‘(l)’

(18) Schedule 1, item 9, page 9 (line 27)
 omit ‘(k)’, substitute ‘(m)’

(19) Schedule 1, item 9, page 9 (line 31)
 omit ‘(l)’, substitute ‘(n)’

(20) Schedule 1, item 9, page 9 (line 34)
 omit ‘(m)’, substitute ‘(o)’

(21) Schedule 1, item 9, page 9 (line 36)
 omit ‘(4)’, substitute ‘(3)’

(22) Schedule 1, item 9, page 9 (line 36)
 omit ‘(3)(c) and (i)’, substitute ‘(2)(e) and (k)’

(23) Schedule 1, item 9, page 10 (line 14)
 omit ‘(5)’, substitute ‘(4)’

(24) Schedule 1, item 9, page 10 (line 17)
 omit ‘or (3)’

(25) Schedule 1, item 9, page 10 (line 19)
 omit ‘(6)’, substitute ‘(5)’

(26) Schedule 1, item 9, page 10 (line 19)
 omit ‘(3)(h)’, substitute ‘(2)(h)’

This large number of amendments effects just one change, which is the removal of the hierarchy which has been introduced in dealing with the best interests of the child test. It was strongly argued for by the court—which, after all, has to apply this test—not to remove any of the items that are in it, but to ensure that all items can be treated and considered by the court as factors of importance. The opposition do agree—and it is important to have this on the record—that a meaningful relationship with both parents and the safety of the children are absolutely vital matters in determining what is in the best interests of the child.

We are simply concerned that we are making the test very difficult for the court to apply. No doubt they will be able to live with it if the government insists on keeping it the way it is. But we do think that matters such as the views of the child, for example, should be able to be taken account of. Depending on the age of the child, it is probably arguable that their views should sometimes be given much more weight than other things. This hierarchy does lead people, and potentially lawyers, down the track of arguing which particular item should be given how much weight. I am not sure that is a constructive way when the bill otherwise encourages people to rely less on litigation. It seems we might be creating a new area of litigation.

I also need to know, because I think there are some legitimate concerns, what the court will be asked to do if the two primary considerations conflict with each other. Obviously, one of the primary considerations is to protect children in particular from violence. If there is violence in a family and a meaningful relationship with both parents is also to be a primary consideration, I do not envy the judges their job of trying to apply the new law in the way that the government proposes. As I say, I have great confidence that the courts will be able to deal with that, and I can see the argument—though I am not sure if it is one that the Attorney puts—that it is useful to highlight these two issues for those many self-represented litigants in the area.

It is important to make sure that both of these factors are at the front of people’s minds when they might be negotiating parenting plans outside the court setting, but we believe that it would be preferable to have all of the items listed. Our proposal still keeps the two primary considerations that the government has identified in their original order, so they would still be the first two matters that people would read when examining the list of what is in the best interests of the child, but we believe it would be preferable not to have that hierarchy inserted into the act.

Mr RUDDOCK (Berowra—Attorney-General) (11.46 am)—The amendments are not supported. The two-tiered hierarchy was
a proposal considered by the committee, which concluded that the approach was appropriate. I have noted that during this debate members have, in a bipartisan way, continued to reflect the level of agreement that we saw before the committee during the inquiry itself. The member for Parramatta supported this provision and described the two-tiered best interest provisions as ‘excellent’. I suspect the reason we will not have a division on these amendments is that the honourable member for Gellibrand has not been able to dissuade her colleagues from the view that they support this measure.

Ms Roxon interjecting—

Mr Ruddock—That is a matter for you. Let me say that I regard the advice of the court as valuable, but I do not regard it as binding. Legislation is the prerogative of the parliament, and the parliament is giving advice for the courts to view these two matters as matters that should be addressed in priority. The others are factors that can be taken into account, but they are not all equal. Yes, I know that there are some judges who believe that family law is, in fact, owned by the court and that they will tell us what it is, but the Family Law Act is an enactment of this parliament. It is the obligation of the court to give us advice as to how that enactment is going to be lawfully implemented, but they are to be guided by it. I am surprised that the shadow minister would want to move from that situation, particularly considering the very strong support given to this measure by her colleagues.

Question negatived.

Ms Roxon (Gellibrand) (11.48 am)—by leave—I move opposition amendments (27) and (52) together:

(27) Schedule 1, item 11, page 13 (after subsection (5)) (after line 9) insert:

‘(5A) The proclamation referred to in subsection (5) may only be made after the Accreditation Rules referred to in section 10A have been tabled in Parliament.

(52) Schedule 4, item 36, page 77 (after line 28) insert:

(3) Without limiting subsections (1) or (2), the Accreditation Rules must provide:

(a) standards that require family dispute resolution practitioners to have adequate training to recognise the signs of family violence, even where no complaint of family violence is made, and make appropriate referrals;

(b) processes for regular monitoring of the quality and performance of family counsellors and family dispute resolution practitioners;

(c) rules that require family counsellors and family dispute resolution practitioners to provide their services in a manner which does not discriminate on the basis of race, religious background, language, ethnic background, gender disability, age, locality or socio-economic disadvantage.

These amendments deal with the accreditation rules that will apply for the new family relationship centres. I noted that in summing up the second reading debate the Attorney referred to the competency standards that are being worked through with the training body. All of that is an appropriate process, but at the end of the day it is still a job for government to ensure that there are standards and accreditation processes that can be enforced by the government. It is not adequate that, as the Attorney suggested, each family relationship centre should simply have an internal complaints process. The issue is what sort of external complaints process there is going to be.

I do not want us to take a backward step rather than a forward step with these relationship centres. One of the early problems with the Family Court was people’s concern that there was nowhere they could go to raise
their complaints about the court. If we are going to encourage more and more people to resolve their matters through family relationship centres, which are going to be much more dispersed and run by a range of different organisations, we should ensure that we have some proper accreditation rules in place. Amendment (27) provides for the accreditation rules to be tabled before compulsory mediation through these family relationship centres and other services becomes part of our law.

In particular, amendment (52) outlines a number of items that we believe should be included in the accreditation rules. I admit that this is probably an unusual process, because the range of accreditation rules are not in the bill before us, but a number of things do appear in the bill and we do not see any reason why you could not include these specifications to put standards in place that ensure there is proper training for staff of family relationship centres so that they can recognise the signs of family violence—and, most importantly, that they can recognise those signs even where no complaint of family violence is made. All of us in this House know that issues around disclosure, such as people’s fear and embarrassment of disclosure, need to be taken into account. We know from talking with experienced counsellors and others that it is a very difficult area and that they need adequate training, experience and support to make sure they can identify these circumstances easily.

The amendment also provides for the accreditation rules to have a process for the regular monitoring of the quality and performance of family counsellors and family dispute resolution practitioners. Again, we do not want to be in a position where we are encouraging people to resolve their matters outside court, which I think is a very good idea, but are then caught without adequate accreditation standards or training in place and are requiring people to use services that might be handling the matters before them quite inappropriately.

I do not think that is likely to happen. We have a lot of good services in this country that are likely to apply to run these. Hopefully, the government will have a good procedure through their tender process of choosing those services which will be able to do this job well. It seems to me that one of the things that would effectively ensure that we have people providing quality services is to make sure that there is some monitoring of that. It seems to me to be pretty much government 101 to want to be able to have some standards in place to be able to monitor the work that is being done.

Finally, we are asking that the accreditation rules make clear that family counsellors and family dispute resolution practitioners have to provide their services in a manner which does not discriminate on the basis of race, religious background, language, ethnic background, age, locality or socioeconomic disadvantage. What we are trying to say here is that if we have government funded services, they need to be made available to everybody irrespective of religious or political views or other matters. As I said in my speech in the second reading debate in the House on this matter, it is fine that there are many differing views of what are appropriate family relationships, and that there are differing views that people might have on divorce, parenting and other things. I think the community is well served by having a diverse range of views. We need to make sure that government funded services do not see their service provision as an opportunity to try to persuade people to their point of view rather than to provide services of mediation or counselling that the government is paying them for. I hope the government can support these amendments. I think that they enhance the package rather than detract from it.
Mr RUDDOCK (Berowra—Attorney-General) (11.53 am)—The amendments will not be agreed to. Let me just make it very clear that we have funded the Community Services and Health Industry Skills Council to develop competency based accreditation standards for training of family dispute resolution practitioners, counsellors and workers. It is a project guided by a steering committee with recognised experience. I do not want to pre-empt or restrict that project by prescribing matters now that have to be addressed in the rules. Although we expect accreditation rules to be made well in advance of the end of phase 2, I do not intend to be benchmarked in relation to those matters. The fact is there are existing arrangements in the family law regulations and the Family Relationships Services program approval requirements which operate at an individual and organisational level to ensure quality services. I think that is the appropriate way to undertake that task.

Question negatived.

Ms ROXON (Gellibrand) (11.55 am)—by leave—I move amendments (29), (30), (31) and (32) together:

(29) Schedule 1, item 11, page 13 (lines 34-5), omit "and that all attendees made a genuine effort to resolve the issue or issues".

(30) Schedule 1, item 11, page 14 (lines 1-6), omit paragraph (8)(c).

(31) Schedule 1, item 11, page 14 after sub paragraph (iv) (after line 29), add "(v) at least one of the parties would fear for, or be apprehensive about, his or her personal well-being or safety, or that of a child, if family dispute resolution was to take place; or"

(32) Schedule 1, item 11, page 15 (line 7), after 'services' insert '" services within six weeks,'.

These amendments deal with a range of issues that go to the new process of mediation and the requirement that people attend mediation, obviously with the aim of resolving their parenting disputes but also as a prerequisite to filing any litigation in court if they have to go down that path in the future.

Three areas are covered. The first one revisits this issue of the definition of violence. It would not have been necessary to move this amendment if the first amendment moved in my name was accepted, but it has not been. I feel very strongly about this issue because I think that we are missing a serious point. Encouraging people to mediate and reach an agreement freely together on the long-term and future parenting of their children cannot be done in a fair and equitable way if somebody is absolutely terrified to sit in the same room as another person and try to negotiate that agreement. This is not in any way to try to encourage people to use violence or fear as a way of avoiding mediation.

I think that the rest of the structure of the act makes sufficiently clear that there is a necessity to go through this mediation in all circumstances where that is possible. I do not think that it should be up to a court or somebody else to make an assessment. In fact, in this situation, it is not a court; the somebody else is an individual person who might be working at the front desk of a family relationship centre, who would make an assessment of whether or not they feel that the violence that the person is afraid of is reasonable or not. As I say, there is simply no argument that reasonableness should come into it when we are trying to look at whether two people can freely negotiate an agreement about the future parenting of their children. If I have to go into that room and I am abso-
lutely terrified, it does not really matter whether that is a terror that is legitimate or not to other people, it still means I will not be able to participate adequately to negotiate a fair agreement for the future.

I think that it is ignoring the extensive work that has already been done about the imbalance in power that often occurs in mediation. It is something that experienced mediators know that they need to deal with. I think that it is a really dangerous and retrograde step that the government is going to take if it is not prepared to make clear that, in those circumstances, it would not wish people to be forced through a process which keeps them in sheer terror.

The other two amendments also deal with mediation. One is to ensure that there is an exception to the need to attend mediation prior to filing litigation if the waiting lists are extremely long. We have been very supportive of the government’s introduction of the 65 family relationship centres and we have been supportive of the three hours of mediation that will be provided. We have reservations about whether it is going to be sufficient. We have reservations about the waiting lists that may exist. We do know that it is critically important for families to be able to deal with these matters at the right time in their relationships, which is not always immediately—sometimes it might be better for them to wait for a while. We are concerned that, if this is not made clear in the exception, people may be not only delayed in getting mediation but, if the mediation is not successful, they will then have been further delayed in being able to file in the courts.

Finally we make a proposal about the certificate of attendance. We obviously support the government’s view that you should encourage people to attend and genuinely participate in mediation as best they can. Perhaps there is another way it can be done, but the reasoning behind amendments (29) and (30) is to make sure that the assessment of only one person in a family relationship centre—on a basis which none of us will know about and will not be reviewable by a court—cannot result in a certificate which says, ‘You haven’t participated genuinely.’

This is an issue that has been raised with us by many people who already practise in the area and have great concerns about the consequences of requiring somebody else to issue a certificate of genuine participation. I do understand the government’s concerns in this area and we agree with the purpose, but I do not think that the provision adequately protects anyone from a decision being made by one person due to circumstances which no-one is particularly aware of, are not necessarily reviewable by the court and might have consequences within the court at a later hearing time.

Mr RUDDOCK (Berowra—Attorney-General) (12.00 pm)—The amendments are not agreed to. I will deal with them in the order that the member has dealt with them, which is not the numerical order. First, on the issue of fear and apprehension for well-being and safety, the exception that the member is proposing would be additional to the existing provisions that allow a matter to go directly to court in circumstances involving abuse or family violence or risk of abuse of a child or family violence if the matter was to be delayed. We consider that the existing exceptions are sufficiently broad to ensure the safety of vulnerable people. In this case, a person could claim they were scared of violence without a reasonable basis for it simply to avoid a dispute resolution process. The government amendments will allow a family dispute resolution practitioner to issue a certificate that dispute resolution not take place where the practitioner believes issues like possible coercion or a history of violence make it inappropriate.
On the six-weeks delay proposal, it is fine to say that these things ought to be benchmarked in that way, but the fact is that putting in place a mandatory provision of that sort would allow people to easily manipulate their situation in order to avoid dispute resolution. We do not want people attempting to avoid dispute resolution. A person could claim that there were no appointments available at times that suited them. They could insist on seeing one particular dispute resolution service although others were able to provide dispute resolution. That is the sort of manipulation that would be possible.

Finally, the reference to genuine effort was added to ensure that people take part in dispute resolution in a productive way; otherwise, one party could sit through the dispute resolution and not say a thing on the instruction of their lawyers in order to ensure they went through the process not in any meaningful way but simply to have a day in court. That is certainly not the way this system is going to work. People ought to be required to make a genuine effort.

Question negatived.

Ms ROXON (Gellibrand) (12.02 pm)—by leave—I move amendments (33), (34), (35), (37), (42), (43), (44) and (45) together:

(33) Schedule 1, item 13, page 18 (line 17) omit:
‘equal shared parental responsibility’, substitute ‘joint shared parental responsibilities’.

(34) Schedule 1, item 13, page 18 (line 21) omit:
‘equal shared parental responsibility’, substitute ‘joint shared parental responsibilities’.

(35) Schedule 1, item 13, page 19 (line 5) omit:
‘equal shared parental responsibility’, substitute ‘joint shared parental responsibilities’.

(37) Schedule 1, item 13, page 19 (lines 7-8)

(42) Schedule 1, item 29, page 26 (lines 23-4), omit ‘equal shared parental responsibility’, substitute:
‘joint shared parental responsibility’.

(43) Schedule 1, item 30, page 26 (lines 27-8), omit
‘equal shared parental responsibility’, substitute:
‘joint shared parental responsibility’.

(44) Schedule 1, item 31, page 27 (line 6) omit
‘equal shared parental responsibility’, substitute:
‘joint shared parental responsibility’.

(45) Schedule 1, item 31, page 27 (line 24) omit
‘equal shared parental responsibility’, substitute:
‘joint shared parental responsibility’.

This range of amendments deals with the same change but is required in a number of different provisions in the bill—that is, to change the term ‘equal’ to ‘joint’ as originally proposed by the Attorney-General in his exposure draft of the bill. This is an issue that both the Attorney-General and I have addressed in our speeches to date of dealing with people’s expectations about what family law can deliver.

The Labor Party is very keen to promote shared parental responsibility. We think that it is good for families and for children if both the mothers and fathers of children are able to engage in an active and caring way with their children even after family breakdown. But we are concerned, when there has been so much debate about having a presumption of equal shared parenting time, that to use the term ‘equal’ rather than ‘joint’ when talking about shared parental responsibility sends an incorrect message to the community about what these changes to the law actually do. I think the use of the word ‘joint’ emphasises that decisions by parents about the future of the child need genuinely to be made together. They need to be discussed together,
people need to consult, as other provisions of the bill require, and those decisions, where possible, should be able to be made together in the best interests of the child. By using the term ‘equal’, which I know is terminology that the Standing Committee on Legal and Constitutional Affairs recommended, I think we edge a step closer to implying that children can somehow have their interests divided by a calculator—that, when we are talking about where it is that children are going to go to school or what religion they will practice or what sort of shared family arrangements there are going to be for their ongoing care, we can just sit down and type something into a calculator and split the child in half equally for each parent.

That is quite an offensive idea. It is not what people in this House mean when they speak about shared parental responsibility. We all know that there are many circumstances where an exact and equal division of time or responsibility is not possible and is not necessarily desirable. I think it is very interesting that the people who advocate equal shared parenting time—which of course has been rejected as a presumption but introduced as an important matter that courts and others must consider when reaching parenting plans—and who would like the government to go further acknowledge that, in most family situations, there would not be an exact 50 per cent division of shared time with the child. Most people who have been through this process, even if their experiences with the current family law are undesirable ones—we know many people have had undesirable experiences—acknowledge that that sort of equal division may not be workable, practicable or in the best interests of the child and a whole range of other things.

I am not sure that the proposed change would have any different legal effect. We propose this amendment not because we believe it might have some different legal effect but because we think it sends a useful message that we are talking about encouraging parents to be able to make decisions together, that there be a joint and shared responsibility for the future of children and that it is not about, ‘You take your 50 per cent and I’ll take mine.’ I think our amendment is more consistent with the rest of the direction the government is taking than the provisions that are currently in the bill.

It is another one of those areas in which the Attorney-General and I agree. The Attorney has since changed his mind following the recommendations of the LACA committee. I respect that that is why he has changed his mind but, as he indicated on another amendment of ours where he has not accepted the view of the LACA committee, each of these amendments should be judged on its merits. We believe these amendments are meritorious and we hope the government will consider them as such.

Mr RUDDOCK (Berowra—Attorney-General) (12.07 pm)—The amendments are rejected. I considered all the recommendations of the Standing Committee on Legal and Constitutional Affairs on their merits, and on this matter I am persuaded that the committee got it right. It was a committee of members of the government and members of the opposition. If somebody had proposed that we should have unequal shared parental responsibility, it would demonstrate to you what the alternative is. I notice that you are not proposing unequal shared parental responsibility, but my point is that the decisions are made by both parents and one parent is not more equal than the other in having their will accepted. When the government has clearly rejected the proposition of equal parenting time, I think it is rather fanciful to suggest that the adoption of this formulation in relation to a different issue—parental responsibility—in some way suggests that we
are supportive of equal parenting time. The fact is that was rejected; it is not part of this package. The issue is substantial. That does not mean that people should not have equal parenting time if it is possible and reasonable—I know people who have negotiated on that basis—but the argument is being run on a false premise. I think the committee recommendation is perfectly appropriate for the parliament to endorse.

Question negatived.

Ms ROXON (Gellibrand) (12.07 pm)—by leave—I move amendments (36), (41), (46), (47), (48), (49), (50), (51) and (53) together:

(36) Schedule 1, item 13, page 19 (line 6) add:

‘(5) When considering the best interests of the child under subsection (4), the court must consider the extent to which each parent:

(a) has taken, or failed to take, the opportunity:

(i) to participate in making decisions about major long-term issues in relation to the child; and

(ii) to spend time with the child; and

(iii) to communicate with the child; and

(b) has facilitated, or failed to facilitate, the other parent:

(i) participating in making decisions about major long-term issues in relation to the child; and

(ii) spending time with the child; and

(iii) communicating with the child; and

(c) has fulfilled, or failed to fulfil, the parent’s obligation to maintain the child.’

(41) Schedule 1, item 25, page 25 (line 23), after ‘order’ insert

‘made after the commencement of this section’

(46) Schedule 1, item 41, page 31 (lines 13-22), omit the item.

(47) Schedule 2, item 6, page 39 (line 32), omit:

‘(whether before or after the commencement of this section)’ substitute ‘made after the commencement of this section.’

(48) Schedule 2, item 6, page 44 (line 21) before ‘order’ insert:

‘if the current contravention is not of a minor or technical nature’.

(49) Schedule 2, item 6, page 44 (line 36) before ‘order’ insert:

‘if the current contravention is not of a minor or technical nature’.

(50) Schedule 2, item 6, page 46 (after line 7), insert:

‘(6A) The court must not make an order under paragraph (1)(d) or (f) if the person who committed the current contravention did so because of a genuine belief that the contravention was necessary to protect the health or safety of a person (including the respondent or the child).’

(51) Schedule 3, item 4, page 60 (line 6) after:

‘Part’ add:

‘except those that are under Division 13A’.

(53) Schedule 4, item 36 page 90 (after line 12) insert:

(aa) their right to have the dispute resolved by a court; and

(ab) the advantages of court proceedings in cases involving family violence, abuse or entrenched conflict; and

(ac) the contact details of a relevant legal aid commission or community legal service; and’.

These are the remainder of the opposition’s amendments, which cover a range of different matters. Given that the government has had these amendments for some time, I am not going to talk to them in great detail other than to make sure for the record that the
number of issues that has been put forward does stand as part of the debate. The first provision looks at including the actual responsibility that a parent has exercised in relation to a child when considering the rebuttal of shared parenting responsibility. This amendment is made out of an abundance of caution. The proposals from Labor have already been accepted and included in the ‘best interests of the child’ test. This is just to make sure that it would be considered also as part of the shared parental responsibility provisions. We have proposed some transitional provisions relating to parenting plans to make sure that, where the court might specifically have wished that orders made by it should not be able to be varied by individual parents, the new parenting plan regime should not be able to surpass those court orders. Obviously, it is hard to know which cases those are because the court will not have turned its mind to the fact that a parenting plan might later be able to be made because this sort of regime was not in place. So that is a proposal to deal with transitional provisions.

We have an amendment which deals with the costs that can be awarded if false allegations of violence are made. It is very interesting that the Attorney-General said in his summing up on this bill that he simply wanted to give the court the discretion to be able to make these orders, not that it be required to do so. The comments he has made to date on this do not make that clear, so it was interesting to hear that. We think this is a really difficult issue. There is absolutely no doubt that nothing should be done to support people who use the court system to knowingly abuse the process. We agree that that is a problem, but we do not think this is the right solution. We are concerned that there is far more evidence of people not reporting violence when they should have done so. This may leave them and their children exposed to violence. To weight the disincentives so that a person not only fears that they may not be able to prove that they fear a situation of violence but also may have a significant costs order put on them is, we think, a very unnecessary burden. It sends the wrong message. We are keen to have people disclose violence if they have been involved in violence or are concerned about risks to their children.

We have amendments that deal with minor and technical contraventions. The original proposals in the bill were that the new harsher remedies that the court is able to order when there have been breaches of parenting plans or court orders should not apply to minor and technical contraventions. The government initially took this approach but has moved away from it following a recommendation from the LACA committee. It seems to us that there is no reason to allow the courts to use these much heavier penalties for minor matters. I suspect, in any case, that the courts would not do that when they are given a list of options and, if they were minor and technical matters, they may well not apply those heavier penalties in those circumstances. So perhaps our concerns will be dealt with in the way these laws are applied in any case.

That may also apply to amendment (50). We are concerned that, if contravention has been made because of a genuine belief that it was necessary to protect the health or safety of a person, including the respondent or the child, you should not be able to use the harsher penalties that are available. Again, we think this is important because it is a component of a number of our amendments which try to put the safety of the child first when dealing with these matters. Obviously, we do not believe that you should give priority to costs orders, bonds and other things that will be made available rather than to a
proper assessment of whether the health and safety of the child was at risk.

There are two more provisions which, with the Attorney’s indulgence, I will address even if our time runs out. (Extension of time granted) Rather than adopting the new provisions, the normal rules of evidence should be required to apply to contravention proceedings. This comes about because of the change that is going to apply to the rules in cases that involve disputes over children, which we have welcomed and think is a great advance in the legal process to try to make the system less adversarial. We are concerned, though, that in contravention proceedings, where you actually now have quite serious penalties that are akin to a number of criminal penalties that might be available in other jurisdictions, not having the rules of evidence or not even having the flexibility to apply the rules of evidence, if that were appropriate, would be unnecessarily restrictive and possibly quite inappropriate. At the moment the court will be able to do that only in exceptional circumstances. It may be that the circumstances are not at all exceptional—in fact, they might be quite common—but the consequences of the contravention proceedings might be so serious that it may not be appropriate for the court to use this new less adversarial procedure for those contravention proceedings.

Finally, we are asking that the number of provisions in the act that deal with the provision of material by a whole range of people—family relationship centres, counsellors and others—about options that are available in a family breakdown situation do need to acknowledge that a legal pathway does exist and may in fact be appropriate for a number of cases. In wanting to encourage people to settle their matters outside the court—which we agree with—and in wanting to encourage people to be able to reach agreements without the expense of lawyers and court processes and all those sorts of things, we cannot pretend that that will actually be adequate in all circumstances. The legal pathway is a legitimate and appropriate pathway for a number of types of disputes. If the government is going to itemise the things that should be included in materials that will be provided to people, I think it would be quite misleading and wrong to not have the legal pathway as one option that should be able to be considered and that people should be made aware of. I hope that the Attorney will agree to those amendments.

Mr RUDDOCK (Berowra—Attorney-General) (12.17 pm) The amendments are not accepted, but I will briefly respond to some of the points made. I do not consider it appropriate to specifically add the failure to fulfil parental responsibility as a factor to be considered when determining whether the presumption of equal shared parental responsibility applies. A failure to fulfil parental responsibility has been strengthened in the best interest factors that the court must consider. It is not appropriate to place additional weight on consideration of this factor compared to others.

The bill seeks to address concerns about false allegations and false denials by the inclusion of the new cost provision that applies where a person has knowingly made false allegations or a false statement—and this clearly also covers false denials. This provision implements a committee recommendation. It is appropriate, given the high test that must be satisfied: a person must knowingly make the false statement. In such circumstances criminal penalties could also be applied.

On the issue of modification of enforcement provisions, I do not consider it is appropriate to implement the opposition amendment to limit the capacity of the court to take into account parenting plans or to
vary existing parenting orders to those orders made since the commencement of the provision. It is appropriate for the court to consider what has been agreed since the parenting order was made. The new approach to disputes based on attendance at dispute resolution is likely to result in more agreements. Where a person has been acting for some time in accordance with an agreement, it is appropriate that this be taken into account when they are later faced with compliance action. This will encourage increased flexibility and provide a means for parents with existing orders to seek to revise those agreements without going back to the court.

In relation to less adversarial proceedings, I think the proposals that the member has in mind would be likely to undermine our quest to change the culture. We consider that contravention applications which often result in the need to vary parenting orders are likely to benefit from consideration in an environment that is child focused and less adversarial. Judges will still have the responsibility for managing these proceedings. In exceptional cases where criminal penalties may be warranted, the existing rules of evidence of course can be applied.

Finally, on the provision of additional information, the bill will insert a new part into the Family Law Act that requires lawyers, court counsellors and dispute resolution practitioners to provide information to separating people on the court’s processes and services. The amendment proposed by the opposition would affect the balance of this information to emphasise court processes. The proposed amendment would not assist in encouraging the cultural change. It would help lawyers, not children. For these reasons, we oppose the measures, but I do thank the honourable member for her constructive consideration of these matters and the amendments she has proposed, which we have looked at quite seriously.

Question negatived.

Mr RUDDOCK (Berowra—Attorney-General) (12.21 pm)—by leave—I present a supplementary explanatory memorandum to the Family Law Amendment (Shared Parental Responsibility) Bill 2005. I move amendments (1) to (27) together:

(1) Clause 2, page 3 (at the end of the table), add:

<table>
<thead>
<tr>
<th>Schedule 10</th>
<th>The day on which this Act receives the Royal Assent.</th>
</tr>
</thead>
</table>

(2) Schedule 1, item 4, page 5 (lines 6 to 12), omit the note.

(3) Schedule 1, item 4, page 5 (after line 12), at the end of the definition of major long-term issues, add:

To avoid doubt, a decision by a parent of a child to form a relationship with a new partner is not, of itself, a major long-term issue in relation to the child. However, the decision will involve a major long-term issue if, for example, the relationship with the new partner involves the parent moving to another area and the move will make it significantly more difficult for the child to spend time with the other parent.

(4) Schedule 1, item 9, page 9 (line 1), omit “having contact”, substitute “spending time with and communicating”.

(5) Schedule 1, item 9, page 10 (after line 12), after subsection 60CC(4), insert:

(4A) If the child’s parents have separated, the court must, in applying subsection (4), have regard, in particular, to events that have happened, and circumstances that have existed, since the separation occurred.

(6) Schedule 1, item 9, page 11 (line 12), omit “inform the court of the child’s views”, substitute “ensure that the child’s views are fully put before the court”.

(7) Schedule 1, item 11, page 13 (after line 30), after paragraph (8)(a), insert:
(aa) a certificate to the effect that the person did not attend family dispute resolution with the practitioner and the other party or parties to the proceedings in relation to the issue or issues that the order would deal with, because the practitioner considers, having regard to the matters prescribed by the regulations for the purposes of this paragraph, that it would not be appropriate to conduct the proposed family dispute resolution;

(8) Schedule 1, item 11, page 17 (line 11), after “alleges”, insert “, as a consideration that is relevant to whether the court should grant or refuse the application,”.

(9) Schedule 1, item 11, page 17 (after line 19), after paragraph 60K(1)(c), insert:

; and (d) the document is a document of the kind prescribed by the applicable Rules of Court for the purposes of this paragraph.

(10) Schedule 1, item 11, page 17 (lines 20 and 21), omit “The document referred to in paragraph (b) may be the application itself or another document.”.

(11) Schedule 1, item 11, page 17 (lines 22 to 30), omit subsection 60K(2), substitute:

(2) The court must:

(a) consider what interim or procedural orders (if any) should be made:

(i) to enable appropriate evidence about the allegation to be obtained as expeditiously as possible; and

(ii) to protect the child or any of the parties to the proceedings; and

(b) make such orders of that kind as the court considers appropriate; and

(c) deal with the issues raised by the allegation as expeditiously as possible.

(2A) The court must take the action required by paragraphs (2)(a) and (b):

(a) as soon as practicable after the document is filed; and

(b) if it is appropriate having regard to the circumstances of the case—within 8 weeks after the document is filed.

(12) Schedule 1, item 11, page 18 (after line 3), at the end of section 60K, add:

(5) A failure to comply with a provision of this section in relation to an application does not affect the validity of any order made in the proceedings in relation to the application.

(13) Schedule 1, page 20 (after line 8), after item 16, insert:

16A After subsection 63C(1)

Insert:

(1A) An agreement is not a parenting plan for the purposes of this Act unless it is made free from any threat, duress or coercion.

(14) Schedule 1, item 25, page 25 (after line 32), at the end of section 64D, add:

(3) Without limiting subsection (2), exceptional circumstances for the purposes of that subsection include the following:

(a) circumstances that give rise to a need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence;

(b) the existence of substantial evidence that one of the child’s parents is likely to seek to use coercion or duress to gain the agreement of the other parent to a parenting plan.

(15) Schedule 1, item 43, page 32 (line 24), omit “amendment made by item 16 applies”, substitute “amendments made by items 16 and 16A apply”.

(16) Schedule 3, item 8, page 69 (lines 3 to 5), omit the item, substitute:

8 Application of amendments

The amendments made by Part 1 of this Schedule apply:
(a) to proceedings commenced by an application filed on or after 1 July 2006; and
(b) to proceedings commenced by an application filed before 1 July 2006, if the parties to the proceedings consent and the court grants leave.

(17) Schedule 4, item 64, page 105 (line 5), after “purposes”, insert “of”.

(18) Schedule 4, page 116 (after line 15), after item 113, insert:

<table>
<thead>
<tr>
<th>Income Tax Assessment Act 1997</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>113A Subsection 30-70(1) (table item 8.1.1)</strong></td>
</tr>
<tr>
<td>Repeal the item, substitute:</td>
</tr>
</tbody>
</table>

| 8.1.1 | a public fund established and maintained by a "non-profit company solely for the purpose of providing money to be used in giving or providing marriage education under the Marriage Act 1961 to individuals in Australia | see section 30-75 |
| 8.1.2 | a public fund: |
| | (a) that is established and maintained by a "non-profit company which receives funding from the Commonwealth to provide family counselling or family dispute resolution within the meaning of the Family Law Act 1975; and |
| | (b) that is established and maintained solely for the purpose of providing money to be used in providing family counselling or family dispute resolution within the meaning of the Family Law Act 1975 to individuals in Australia | none |

(19) Schedule 4, page 116, after proposed item 113A, insert:

113B Section 30-75

Repeal the section, substitute:

30-75 Marriage education organisations must be approved

You can deduct a gift that you make to a public fund covered by item 8.1.1 of the table in subsection 30-70(1) only if the company has been approved by the Minister under section 9C of the Marriage Act 1961.

(20) Schedule 4, page 125 (after line 26), after item 138, insert:

<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>The amendments made by items 113A and 113B of this Schedule apply to gifts made on or after commencement.</td>
</tr>
</tbody>
</table>

(21) Schedule 5, item 5, page 129 (line 13), omit “and inform the court of that view”.

(22) Schedule 5, item 5, page 129 (line 16), omit “Without limiting paragraph (2)(a), the”, substitute “The”.

(23) Schedule 5, item 5, page 129 (lines 28 and 29), omit paragraph 68LA(5)(b), substitute:

(b) ensure that any views expressed by the child in relation to the matters to which the proceedings relate are fully put before the court; and

(24) Schedule 6, item 1, page 134 (after line 15), after paragraph 68N(a), insert:

(aa) to ensure that orders, injunctions and arrangements of the kind referred to in subparagraph (a)(ii) do not expose people to family violence; and

(25) Schedule 9, item 17, page 168 (lines 8 to 11), omit the item.

(26) Schedule 9, item 42, page 173 (lines 3 to 5), omit the item.

(27) Page 180, at the end of the Bill, add:

Schedule 10—Orders of non-judicial officers of State courts of summary jurisdiction
Family Law Act 1975

1 At the end of subsection 39(6)
Add:
Note: Under section 39A of the Judici-ary Act 1903, the jurisdiction conferred by this subsection on a State court of summary juris-diction may only be exercised by certain judicial officers of the court.

2 At the end of subsection 69J(1)
Add:
Note: Under section 39A of the Judici-ary Act 1903, the jurisdiction conferred by this subsection on a State court of summary juris-diction may only be exercised by certain judicial officers of the court.

3 After Part XIV A
Insert:

PART XIVB—ORDERS OF NON-JUDICIAL OFFICERS OF STATE COURTS OF SUMMARY JURISDICTION

114MG Definitions
(1) In this Part:

federal family jurisdiction means ju-risdiction in relation to matters arising under this Act.

ineffective order has the meaning given by section 114MH.

liability includes a duty or obligation.

non-judicial officer of a court of sum-mary jurisdiction of a State means an officer of the court who is not a magis-trate, or arbitrator, of the kind referred to in paragraph 39(2)(d) of the Judici-ary Act 1903.

proceedings includes an initiating ap-plication.

proceedings for the order in relation to an ineffective order means the proceed-ings in or in relation to which the order was purportedly made.

right includes an interest or status.

(2) A reference in this Part to an ineffect-ive order of a court of summary juris-diction is a reference to an ineffective order that a non-judicial officer of that court purported to make.

114MH Meaning of ineffective order
(1) A reference in this Part to an ineffective order is a reference to a purported order described in subsection (2). This subsection has effect subject to subsec-tion (3) as it affects the meaning of a reference to an ineffective order in the context of a particular case.

(2) An order that a non-judicial officer of a court of summary jurisdiction of a State has purported to make is an ineffective order if:

(a) the officer purported to make the order before the commencement of this Part; and

(b) the order was made in the exercise, or purported exercise, of the court’s federal family jurisdiction.

(3) If a court, or a non-judicial officer of a court of summary jurisdiction of a State, has purported to affirm, vary, re-voke, set aside, reverse, revive or sus-pend an ineffective order, a reference in this Part to the ineffective order is a reference to the order in the form in which, and to the extent to which, it purports or purported to have effect from time to time.

114MI Rights and liabilities declared in certain cases
The rights and liabilities of all persons are, by force of this section, declared to be, and always to have been, the same as if each ineffective order of a court of summary jurisdiction had been an order made by that court, in the exercise of its federal family jurisdiction, in or in relation to the proceedings for the order.
114MJ  Effect of declared rights and liabilities

(1) A right or liability conferred, imposed or affected by section 114MI in relation to an ineffective order of a court of summary jurisdiction:

(a) is exercisable or enforceable; and
(b) is to be regarded as always having been exercisable or enforceable;

as if it were a right or liability conferred, imposed or affected by an order made by that court, in the exercise of its federal family jurisdiction, in or in relation to the proceedings for the order.

(2) The rights and liabilities conferred, imposed or affected by section 114MI include (but are not limited to) the right of a person who was a party to the proceeding or purported proceeding in which the ineffective order was made to appeal against that order.

(3) In this section:

enforceable includes able to be dealt with by proceedings under:

(a) Division 13A of Part VII; or
(b) Division 2 of Part XIII A;

relating to a contravention of an order.

114MK  Effect of things done or omitted to be done under or in relation to rights and liabilities

(1) Any act or thing done or omitted to be done before or after the commencement of this Part under or in relation to a right or liability conferred, imposed or affected by section 114MI in relation to an ineffective order of a court of summary jurisdiction:

(a) has the same effect, and gives rise to the same consequences, for the purposes of any written or other law; and
(b) is to be regarded as always having had the same effect, and given rise to the same consequences, for the purposes of any written or other law;

as if it were done or omitted to be done to give effect to, or under the authority of, or in reliance on, an order made by that court, in the exercise of its federal family jurisdiction, in or in relation to the proceedings for the order.

(2) Subject to subsection (3), for the purposes of an enforcement law (see subsection (4)), any act or thing done or omitted to be done before or after the commencement of this Part:

(a) gives rise to the same consequences; and
(b) is to be regarded as always having given rise to the same consequences;

as if each ineffective order of a court of summary jurisdiction were an order made by that court, in the exercise of its federal family jurisdiction, in or in relation to the proceedings for the order.

(3) If, before the commencement of this Part, a court purported to convict a person of an offence against an enforcement law on the basis that an ineffective order was a valid order, nothing in this section is to be taken to validate or confirm that conviction.

(4) In this section:

enforcement law means a provision of a law of the Commonwealth, other than a law relating to contempt of court, that sets out a consequence for a person if the person:

(a) contravenes; or
(b) acts in a specified way while there is in force;

an order, or a particular kind of order, made by a court exercising federal family jurisdiction (whether or not the provision also applies to other orders of courts).

114ML  Powers of courts in relation to declared rights and liabilities

(1) A court may vary, revoke, set aside, revive or suspend a right or liability conferred, imposed or affected by sec-
tion 114MI in relation to an ineffective order of a court of summary jurisdiction as if it were a right or liability conferred, imposed or affected by an order made by that court of summary jurisdiction, in the exercise of its federal family jurisdiction, in or in relation to the proceedings for the order.

(2) In addition to its powers under subsection (1), a court (the review court) also has power to make an order achieving any other result that could have been achieved if:

(a) the ineffective order had been an order made by a court of summary jurisdiction, in the exercise of its federal family jurisdiction, in or in relation to the proceedings for the order; and

(b) the review court had been considering whether:

(i) to vary, revoke, set aside, revive or suspend that order; or

(ii) to extend the time for the doing of anything in relation to the proceedings for the order; or

(iii) to grant a stay of the proceedings for the order.

114MM Proceedings for contempt

If (whether before, at or after the commencement of this Part) a person has:

(a) interfered with a right conferred or affected by section 114MI in relation to an ineffective order of a court of summary jurisdiction; or

(b) failed to satisfy or comply with a liability imposed or affected by section 114MI in relation to an ineffective order of a court of summary jurisdiction;

the interference or failure is, and is taken always to have been, a matter that can be dealt with in the same manner as if the interference or failure had been in relation to a right conferred or affected, or a liability imposed or affected, by a valid judgment of that court.

114MN Evidence

The court record, or a copy of the court record, of an ineffective order may be adduced in evidence to show the existence, nature and extent of each right or liability conferred, imposed or affected by section 114MI.

114MO Part does not apply to certain orders

Nothing in this Part applies to an order declared to be invalid by a court before the commencement of this Part.

114MP Jurisdiction of courts

(1) Subject to subsection (3):

(a) jurisdiction is conferred on the Family Court and the Federal Magistrates Court; and

(b) the Family Court of a State is invested with federal jurisdiction;

with respect to matters arising under this Part.

(2) Subject to subsection (3), each court of summary jurisdiction of each State is invested with federal jurisdiction, and jurisdiction is conferred on each court of summary jurisdiction of each Territory, with respect to matters arising under this Part.

(3) A court has jurisdiction in respect of a matter arising under this Part in relation to an ineffective order that relates to a matter arising under this Act (the initial matter) only if the court has jurisdiction in respect of the initial matter. The court’s jurisdiction under this Part is subject to the same conditions and limitations as would apply to it in dealing with the initial matter.

I have copious notes which I will give the honourable member to read later. Amendments (1) to (27) address issues that have come to the government’s attention since the Family Law Amendment (Shared Parental Responsibility) Bill 2005 was introduced.
They also clarify the operation of certain provisions in the bill. The amendments demonstrate our continuing willingness and commitment to listen and respond to the views of stakeholders and deliver better outcomes for families. The amendments also include the three opposition amendments which I accepted and have already addressed. Whilst I do not think they are necessary, they do not undermine the government’s reforms, unlike many of the other amendments we have already dealt with.

One substantial issue which involved a number of state governments should be referred to by me. I have become aware that some registrars in the Magistrates Court of Victoria have been purporting to make consent orders in matters under the Family Law Act when they have no power to do so. The government amendments will add a new part XIVB to the Family Law Act 1975 to address the issue of ineffective orders made by officers of state courts of summary jurisdiction in the purported exercise of jurisdiction under the Family Law Act. These provisions will commence on royal assent.

The government amendments do not attempt to validate the ineffective orders but rather to create new statutory rights and liabilities for parties that may be exercised and enforced in the same manner as valid judgments of the relevant court. This model has been used in the past to deal with ineffective court orders, and similar legislative provisions have been upheld by the High Court. These matters have been the subject of an approach to me by the Attorney in Victoria. It is a serious issue. They need to be able to operate as they were made and this should ensure that this happens. The other amendments speak for themselves.

Question agreed to.

Bill, as amended, agreed to.

Third Reading

Mr RUDDOCK (Berowra—Attorney-General) (12.24 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 1 March, on motion by Mr Dutton:

That this bill be now read a second time.

Mr SWAN (Lilley) (12.25 pm)—The Tax Laws Amendment (2006 Measures No. 1) Bill 2006 deals with a number of measures and appears in the context of the Treasurer’s comparative tax inquiry announced on the weekend and subsequently repudiated by the Prime Minister in his remarks when he said that we do not need substantial tax reform. I do not believe that Australians need a Clayton’s inquiry to tell them this country urgently needs tax reform. The elements of that reform, I think, are relatively simple. They are needed to put some incentive in the tax system and to make it simpler, fairer and more competitive.

It seems the Treasurer needs to have an inquiry to tell him what everyone else knows. He set up a task force of Treasury officials headed by Dick Warburton and Peter Hendy, but what is their remit? It is not to offer suggestions for reform, but simply to rank Australia’s tax system against other tax systems. As I pointed out this week, he could have downloaded the relevant tables for free from the OECD website.

The Treasurer complained on the weekend that the tax debate does not take into account overseas state or city taxes when comparing them with Australian taxes. Tables 1.1 and 1.2 of the OECD tax database tell us ‘Central, subcentral and combined personal in-
come tax rates’—that is, just the city and state-level taxes that the Treasurer was talking about. He has also complained that international comparisons do not take account of European social security contributions. Table 1.3 of the OECD tax database reports ‘All-in average personal income tax rates’—that is, income tax, plus employee social security contributions.

Even if we took the Treasurer seriously and thought there was not enough international benchmarking of Australia’s tax system, he would be ignoring the tax policy documents from Peter Hendy’s own organisation, the Australian Chamber of Commerce and Industry. ACCI’s taxation reform blueprint has pages of international comparisons of Australia’s tax system dealing with R&D tax, corporate tax, CGT and personal tax against international benchmarks. ACCI, among many others, has already done the work, and I could cite many other pieces of work. On top of that, we have a closed, private inquiry which leaves ordinary taxpayers unrepresented. So this is a tax inquiry which disenfranchises average taxpayers. It is an inquiry into a tax system that is in serious need of reform but an inquiry which is not allowed to make any recommendations about that reform.

This is all very puzzling. I think it is really only explained in terms of the Treasurer’s even more bizarre behaviour that we saw over the weekend—his foray into social policy, his claim that he had been deeply scarred by the introduction of the GST and his ‘Look at me!’ performance at the Press Club yesterday where he claimed that, after 10 years in office, suddenly he might decide to change some of the settings to make them more friendly to women. He runs a tax system that absolutely punishes second-income earners in households that face some of the highest tax grabs anywhere in the Western world. This has been very well documented by the OECD, but if you look at the terms of reference for the Warburton inquiry you will see that there does not appear to be any real mention of intersections between the tax system and the transfer payments system, which is where most women are suffering horribly in the tax system.

We know that when the Treasurer appeared at the Australian conference last year, he said that he did not consider effective marginal tax rates were a problem at all. I think he repeated that lewd line yesterday at the Press Club. Marginal tax rates are a big problem when second-income earners want to work more hours and suddenly find they are going to lose 60c in every additional dollar they earn after the withdrawal of transfer payments. They know all about how unfair this tax system is and why it urgently needs reform. It urgently needs reform because it is an impediment to participation and a huge handbrake on productivity in this economy.

This matter does not even appear to get a mention in the terms of reference for the inquiry. Why did we get the inquiry? It has enabled the Treasurer to cartwheel across the political stage in the space of a weekend—to go from being anti reform to some position which might be almost pro reform to get himself out of the jam that he got himself into in the second half of last year on tax.

I certainly hope we do see some substantial reform, because there are many people out there in the Australian economy who deserve that reform, and the economy needs it if we are going to get the improvements in productivity that are required to make us a much more competitive nation and to deal with some of the structural problems that the Treasurer is in denial over. Those structural problems were demonstrated yesterday in the national accounts, where our very poor export performance was there for everybody to see. Unless we improve that export perform-
ance, our foreign debt is going to continue to escalate and net foreign liabilities will continue to go through the roof. There is a very strong argument for tax reform as part of a wider suite of measures required to lift productivity and competitiveness, because sooner or later those levels of debt—our appalling trade performance—will catch up with this country.

It is crucial that governments regularly assess the competitiveness of their tax arrangements and make policy judgments accordingly. The design of our tax system has the potential to influence both capital and labour markets. With highly mobile capital and increasingly mobile labour, countries with uncompetitive tax regimes will suffer. A top-notch tax system is crucial to our success in the global economy.

By international standards, Australia’s personal tax system is too complex and marginal rates are too high. While other countries have been getting on with the task of simplifying their income tax systems, we have been adding to the complexity of ours. According to the OECD personal income tax database, the comparative complexity of Australia’s tax system has been increasing relative to other countries—another achievement of Treasurer Costello in the last 10 years! Five years ago nine other OECD countries had more complex marginal tax rate structures, but in the latest tables only four can claim to be more complex. That is on the public record already. I suppose this will be presented as a revelation in the findings of the inquiry.

The OECD also reveals the high marginal tax rates faced by personal taxpayers in Australia and the trend overseas to embrace lower marginal rates. In 2004 Australia had the ninth-highest top statutory marginal tax rate compared to the 10th-highest five years ago. Last year our top statutory marginal tax rate, at 48.5 per cent, was considerably higher than the average of 44 per cent and the median of 42.8 per cent, both of which are down around three per cent compared to five years ago. That is on the record.

Furthermore, as I was saying earlier, the marginal tax rates faced by many of those on lower incomes are even higher—much higher—once the withdrawal of our complex array of transfer payments and tax offsets is taken into account. That is a huge brake on participation in the workforce. Precisely at a time when labour shortages are emerging in key areas we have an intersection between our tax system and our transfer payments system that stops a lot of women from working longer, even though they want to. This matter is barely even mentioned in the terms of reference of the inquiry. A single-income family on average earnings has an effective marginal rate of 51.5 per cent, the second highest in the OECD. That is up from 35.5 per cent 1996, when we had the 15th-highest rate. That is on the record. Presumably it will be published in the report. The same family type on the minimum wage currently has an effective marginal rate of 104.5 per cent. That is a shocking thing to do if you are interested in moving people from welfare to work and increasing participation.
Easing the burden on low- and middle-income earners, many of whom pay the highest effective marginal tax rates, must be our first priority when we are talking about reform. High EMTRs are important because they reduce incentives to participate in the labour market, increase skills and save. That was the motivation behind Labor’s response in the 2004 budget—a response that produced twice the reform that this lazy Treasurer produced in his budget.

Labor is convinced of the need for a simpler system. A powerful case is emerging for a personal income tax system with fewer and lower marginal rates and a streamlined system of tax offsets and personal income tax deductions. Adopting a tax system with fewer and lower marginal rates does not mean that we abandon the important principle of a progressive tax system. On the contrary, we are a strong believer in a progressive tax system. A progressive system is important because it recognises that those on higher incomes have an increased capacity to contribute more tax because their non-discretionary spending takes up a smaller proportion of their income. I believe we can design a flatter marginal tax rate structure with as few as three marginal rates. It can be designed in a very progressive way.

Advocates of flat taxes do not seem to understand that this factor is the reason that we have a progressive system in the first place. You will see all the arguments come out in this debate from those who really want to redistribute the tax burden further down to low- and middle-income earners. I want to make it very clear that Labor is absolutely committed to a progressive tax system, unlike certain sections of those opposite.

Simplified personal income tax systems, with fewer and lower marginal rates, are common overseas and ought to be considered in the Australian context if they are affordable and fair. Such systems typically operate with a generous personal tax-free allowance that could be considerably more generous than our existing general tax-free threshold. It would potentially remove the need for many low-income earners to pay any tax and massively improve the rewards to move into the labour market. Overseas, the personal tax-free allowance is typically withdrawn at higher incomes with the trade-off of lower marginal tax rates.

At the very least, the experience of reform overseas shows it is possible to adopt a simpler and flatter tax structure that can reduce the tax burden for everyone, reduce the highest effective marginal tax rates and remain progressive. The extent to which marginal tax rates could be reduced depends on a range of factors including the desired distributional outcomes and the ability to finance the overall tax reductions. And there is a strong case for paying special attention to single and couple taxpayers without children who are on average wages or less. The OECD makes it clear that such taxpayers have faced an increased tax burden under the Howard government, transfer payments included or not.

From an international perspective—as the Treasurer should know—comparisons of Australia’s tax system to what is going on elsewhere are well documented. But there are a few facts that ought to be put on the record here today. Wage earners on around average earnings or less are losing a greater share of their gross earnings in tax today than in 1996. Typical Australian families face the second highest effective marginal tax rates in the OECD. OECD studies have shown that Australia has a heavy reliance on income taxes which are used in part to churn money back to households as transfer payments.
If the Treasurer asked ordinary taxpayers, the Treasurer would find what we already know, and that is that the Australian tax system needs reform. It needs reform up and down the scale, but particularly to reward the hard work of middle-income earners. It needs reform to encourage participation, particularly for those who should be in the workforce but who face the sting of losing too much of their social security payments. It needs reform to be fairer and simpler. The thousands of pages of the tax acts have simply grown out of control and need serious pruning.

That brings me to a number of the measures in the bill before the House. This bill introduces a range of measures to assist temporary residents. Specifically, it creates an exemption from Australian income tax on income derived from outside Australia for individuals who are considered to be temporary residents for tax purposes. As I have said before, we need to make sure that the tax treatment of highly skilled foreign executives is not disadvantaging the international competitiveness of Australia’s businesses in the hunt for top global talent.

Considering the dire skills shortage that is constraining Australia’s economic growth and putting pressure on prices and wages, there is a lot to be said for measures that allow Australia’s businesses to meet their demand for skilled employees. There is a lot more to be said for this government and the private sector getting stuck into investing in our own people first and foremost. They should not be using the immigration system as a substitute for training Australians here at home. But the fact is that there are some significant skills shortages. They are a consequence of the Howard government’s chronic underinvestment in Australia’s education and training system.

The bill also allows certain business expenditures to be tax deductible. One of the effects of the bill is to make James Hardie’s compensation expenses tax deductible. This is something that the Treasurer said he would never do. I am pleased to stand here and say that he has done it. The only problem is that we have not heard the Treasurer say it. But he did do it, and, even though he will not say it publicly, I will give him the credit for doing it. I will not give him the credit for being so mum about it. This is a necessary part of the arrangement to make sure that James Hardie bears the burden for the long-term consequences of its shameful practices that have ruined so many people’s lives.

If this arrangement had not gone through—and for a while it looked like it would not, because the Treasurer was going to block it—Australian taxpayers would have had to have borne the burden of health care, disability support payments and pensions for the default of James Hardie, so I am pleased this bill is before the House. It is beneficial not only for those directly involved but for the nation as a whole.

The bill also includes measures to deter the promotion of schemes to avoid or evade tax. These measures are welcome, though I note that the problem of promoting tax avoidance has been around for a long time and has done a lot of damage to the integrity of the tax system, and it has taken the government years to do anything about it. There is also a minor amendment to the tax treatment of prepaid phone vouchers.

I now want to turn to Labor’s proposals and Labor’s amendment. The amendment we are moving to this bill addresses concerns about taxpayers subsidising the payment of kickbacks in developing countries under the guise of legitimate business expenses deductible under tax law. These so-called facilitation payments are not illegal under
criminal law—if they are minor, if they do not involve paying for decisions about how contracts are awarded and if careful records are kept. But the standard for tax law is different. Under the tax law, a facilitation payment can be deducted even if it is not minor and there are no records kept.

The OECD reported on 4 January that the gap between the tax law and the criminal law ‘may provide scope for abuse’. That is why Labor is moving an amendment that will bring our laws relating to facilitation payments into line with OECD standards. We will try to make sure that only minor payments can be claimed as tax deductions and that such payments are recorded. I commend Labor’s amendment to the House.

Mr RAN DALL (Canning) (12.42 pm)—I am very pleased to speak on the Tax Laws Amendment (2006 Measures No. 1) Bill 2006. At the beginning, I would like to say that it is a historic day in this parliament. Today, being 2 March, is the 10-year anniversary of the Howard government. I am very pleased to stand here on this historic day to have a few words to say on this bill. I am pleased to be here because I did not serve the whole 10 years, as some people will know. I had a rest for three years and came back to represent another seat. I am very proud to represent the Howard government in my electorate of Canning. I am very proud also to be a member of such a successful government, led by arguably the best Prime Minister this country has ever seen.

That is why I find it almost amusing to see the member for Lilley having such a belly-ache about the Treasurer having done such a terrible job. We have had eight surpluses, we have had incredible growth, we have low home loan mortgage rates and we have low inflation. All the fundamentals are right. The Australian economy is a model economy by world standards. And the member for Lilley has a diatribe bagging the Treasurer. As the Prime Minister has said, he is probably the best Treasurer that this country has ever seen. So we have the best Prime Minister and the best Treasurer, and long may they reign in their current positions. I am very proud to serve under them, and I hope it is for a long time.

Addressing the matters before us today, I would like to talk about the foreign income exemption for temporary residents. That is an excellent move, and this bill tidies up a number of issues. Providing this exemption sends a signal to quality executives that they will not be disadvantaged by bringing their excellent skills and abilities to Australia. In fact, in broad terms, the new rules will provide temporary residents with a tax exemption for most foreign sourced income, capital gains and interest withholding tax obligations associated with foreign liabilities. This is a significant departure from Australia’s current approach to taxation, and I endorse it. Obviously in some respects it addresses the brain drain, and that is a very good measure.

Another issue this bill covers is business related costs. The measure introduces a systematic treatment for businesses’ black hole expenditures, and it provides a new five-year write-off for business capital expenditures not taken into account and not denied deduction elsewhere in the income tax law. Capital expenditure incurred in relation to past, present and prospective businesses will be deductible to the extent that the business is, was or is proposed to be carried out for a taxable purpose. The final element is in relation to the GST on vouchers and prepaid phone products. The measure will ensure that prepaid phone products are treated as eligible vouchers for GST purposes and ensure that the GST is paid on the face value of the voucher when it is used.
Those are some of the measures in Tax Laws Amendment (2006 Measures No. 1) Bill 2006, but the main reason I rise today to speak to the bill concerns the measures to deter the promotion of tax exploitation schemes. This issue has been very much on my radar. It is an issue that I am very conscious of, and I have spoken many times about it in this House. These measures are well overdue. In fact, what has really happened in this debate is that the cart has been put before the horse. The Taxation Office, led largely by Mr Michael Carmody, persecuted the people involved in these schemes—those who were taken in by the schemes—but let the promoters off scot-free. So we had in many cases people who had entered into schemes—quite legitimately, they believed—offered by their accountants and by very sound advisers, and the people who promoted these schemes took the money and lived happily ever after. Then the poor people bound up in the scheme were persecuted for years by the Australian tax office.

To me, it has been one of the most galling episodes of maladministration of the Australian tax office we have ever seen because it had such a retrospective nature. Before the ROSA reforms, people were being pursued for more than six years by the Australian Taxation Commissioner. Of course, not only did that cause heartache but it caused businesses to go bankrupt, the break-up of families and, in many cases, suicides and untimely deaths of people who just could not take any more. Finally this issue is being addressed. I note that this legislation should have been in the House a long time ago, because it was originally proposed by Minister Coonan, then Assistant Treasurer, in 2003. Here we are in 2006, and it is finally getting up. Well done: we have finally got these effective measures in the House. They will deter the promotion of tax avoidance and tax evasion schemes and protect the integrity of the product ruling system administered by the ATO.

The ATO has had a sad history of rulings. You only have to look at the Petroulias affair and what a disgraceful performance that was. There was Mr Petroulias, the white-haired boy of Mr Michael Carmody, who handed out private rulings like confetti—and now he is in court with the Australian Taxation Office, largely because he fell out with his mate Michael Carmody. We know this case is continuing, so I will not say any more. But many of the people who entered into these schemes did so because they believed promoters when they told them they had a private binding ruling that applied to the scheme they were promoting. As we have since found out, it did not apply to that scheme at all; it only applied to the individual or the individual case and it was not able to be extrapolated to other schemes or programs. These poor people—mums and dads, small business people—invested heavily in these schemes, thinking they were quite legitimately offsetting their tax.

At the outset I will say that there is a complete misunderstanding in this country that, if you try to minimise tax, you are doing something wrong. It is your obligation under the law in this country to legally minimise your tax. It is ridiculous to be paying far more tax than you need to. Anyone with half a brain would try to keep as much of the money that they earn as they can rather than give it to the Australian tax office.

Mr Windsor—That’s a criticism of the government!

Mr RANDALL—I am happy to criticise the government if it is wrong and, in this case, the government is, as I have said, acting—albeit slowly. But one of the great defences is: ‘The Australian Taxation Office is an independent statutory authority. We can-
not attack it; we have got to let them administer themselves. I am sorry, but I think that is wrong. In the case of the Australian Taxation Office, maybe more of the decisions, particularly legislative changes, should come back to this parliament before the Australian Taxation Office decides that they are going to make changes. We have seen this so many times. When some of the changes were made, having decided that a scheme had become far too unwieldy and had to be retrospectively dealt with, how did Mr Michael Carmody deal with it? He would put out a press release or put it in a speech. That was supposed to be the signal to everybody out in the community that the Taxation Office had made a ruling—a press release or a speech to some luncheon group. Get off it!

We have to try and give people some real direction in their business affairs in this country rather than the slapdash method that Michael Carmody offered. I notice that he is no longer there. He is off trying to fix up the Australian Customs Service, which is in a mess too. Goodness knows where the containers will end up! You can see that I have a very dispassionate view of Mr Michael Carmody, because he basically screwed the Australian Taxation Office and the people whom he was presiding over.

Let us get to some of the elements of this measure to deter promoters. I want to give one example before I continue to demonstrate how innocent some of these people were who got involved in these mass marketed schemes. A couple, who were on a very low income, came into my office. The gentleman was a gardener at the local school and his wife was a cleaner. They borrowed $12,000 to take half a unit of Budplan and half a unit of lemongrass—I think that is what it was called—and, as a result, their liability through penalties and interest was $40,000. They had borrowed the $12,000 to go into these two stupid schemes and they had a liability of $40,000, which of course they could not pay. They were about to lose their house until I was able to make representation to the minister for a compassionate waiver. How many other couples are there in the country like this couple who need compassionate consideration? They were sucked into a scheme which was quite ridiculous and which they could not afford.

Just for the sake of informing the House in this debate, I will outline the definition of a promoter:

1. An entity is a promoter of a tax exploitation scheme if:
   a. the entity markets the scheme or otherwise encourages the growth of the scheme or interest in it; and
   b. the entity or an associate of the entity receives (directly or indirectly) consideration in respect of that marketing or encouragement; and
   c. having regard to all relevant matters, it is reasonable to conclude that the entity has had a substantial role in respect of that marketing or encouragement.

2. However, an entity is not a promoter of a tax exploitation scheme merely because the entity provides advice about the scheme.

3. An employee is not to be taken to have had a substantial role in respect of that marketing or encouragement merely because the employee distributes information or material prepared by another entity.

That is the long-winded definition of what a promoter is. The definition of a tax exploitation scheme is:

... if … it is reasonable to conclude that an entity that … entered into or carried out the scheme did so with the sole or dominant purpose of … getting a scheme benefit from the scheme ...

Those definitions are now on the record. Let us look at what the bill does to deter the promoters of these exploitation schemes. There will be civil fines up to a maximum of $550,000 or twice the fees a promoter earns.
from the scheme. How is the $550,000 arrived at? It is 5,000 penalty units, and a penalty unit is $110 per unit. So that is the maximum penalty for promoters of these schemes.

Lawyers and accountants have had a little trouble with this legislation. They were very concerned that their professional advice may see them caught up in the penalties and sanctions under these amendments. They obviously lobbied pretty hard because they ended up getting their way. In some respects, I have a bit of a problem with that, because they are paid for their advice. It was deemed that unless they were seen as promoters—other than their giving advice—they would be exempt from this legislation. As I said, I am not totally comfortable with that decision. However, I will move on.

Mr Windsor—I was enjoying that.

Mr RANDALL—You were enjoying the silence, were you? There is another group of people who gets caught up in these schemes. A most recent case involves the exploitation of employee benefits arrangements. Yesterday, in an article on news.com.au, Katharine Murphy and Elizabeth Colman wrote:

The Inspector-General of Taxation has urged the tax office to offer a more generous settlement to people caught in a bitter dispute over minimisation schemes.

The intervention by David Vos yesterday followed confirmation the ATO will offer 400 taxpayers caught in the schemes—known as employee benefit trusts—a new settlement deal, waiving their fringe benefit tax debts.

Mr Vos negotiated this agreement. A little piece at the bottom of that article says:
The ATO’s handling of the dispute came under attack, with several Coalition backbenchers, led by West Australian Liberal MP Don Randall, criticising former tax commissioner Michael Carmody’s handling of the issue.

It is good to see that someone has realised that a few of us have been pursuing this issue for some time. This would not have been achieved, as I have said to the House previously, unless the former Assistant Treasurer, Mal Brough, had decided that he would take a hand and that people who were having trouble settling with the Australian Taxation Office would be offered settlements. It was taking so long to get any communication from the Australian Taxation Office that these debts blew out. For example, I was visited by some people from the electorate of the member for Swan who had a $40,000 primary tax bill. They own a tank company in Canning Vale and they had a bill of over $1 million because of penalties, interest, primary tax, fringe benefits et cetera. They just could not pay the $1 million. Obviously, they were trading whilst insolvent, and the grief that this was causing these two businesspeople was just unbelievable.

I congratulate the minister, because he brought in the Australian Taxation Office, sat the businesspeople down with their advisers and had a look at the bill they faced. They ended up having only one taxing point and not three, the penalties coming down from 50 per cent to five per cent and the interest coming down from, I think, 13 per cent to 4.7 per cent. That is quite reasonable. Their bill came down from about $1 million to about $100,000, which they could pay, particularly when they were given some consideration and time to pay. That was a really good outcome, and that is what should have happened.

This is one of my great concerns. I say to the people—if there is anyone out there listening to this debate—that the Public Accounts Committee of this parliament is holding an inquiry, led by its chairman Tony Smith, into the administration of the Australian Taxation Office. I encourage all people in Australia who have ever had a problem
with the Australian Taxation Office and its administration to make a submission to that inquiry. If they do not make a submission, everybody will think everything is fine. As a result, they will end up being treated much the same by the current Commissioner of Taxation, Mr D’Ascenzo, for whom I do not have a great deal of respect because he is just a clone of Michael Carmody—but that is another issue.

A government member—Oh!

Mr RANDALL—It is true. He has never worked anywhere else. He has only ever worked in the Australian Taxation Office. That has been his only job, all his life. Believe it or not, one of the other natives in the woodpile is Mr Fitzpatrick, who is now their senior counsel. I met with him and a group of other people in this House and he said about a court case that was adverse to the Australian Taxation Office: ‘We’re going to ignore it, because we don’t like the ruling.’ We said, ‘What are the people going to do who end up being exposed to you as a result of your ignoring this ruling?’ He said, ‘They can take us to court.’ That was his attitude, Fitzpatrick—‘Take us to court.’ How can poor little Mr and Mrs business man and woman out there in voter land take on the Australian Taxation Office in court for years and years? Of course they cannot. That is the arrogant and disgraceful behaviour of the Australian Taxation Office, led by the people whom I have mentioned. That is why people have to make a submission to Tony Smith’s inquiry through the Public Accounts Committee of this parliament and let the committee know if they have been subject to any of that.

Mr D’Ascenzo has put out a booklet called, Making it Easier to Comply. Page 30 mentions the ‘Review of Aspects of Income Tax Self Assessment’—in other words, the ROSA review. What Mr D’Ascenzo is saying here is that from now on, as a result of legislation in this place late last year, the tax office cannot go back more than two years. If the tax office has not dealt with your taxation issues within two years, the issues stand. After that period, a taxpayer’s income tax assessment will generally not be amended unless—and here is the worry, and why we are going to have a close look at this legislation—they have been involved in tax avoidance or have deliberately sought to evade their tax responsibilities. This is within the purview of the taxation commissioner. So he still has a subjective ability to review income tax assessments past two years. That is an issue we need to have a look at.

This legislation is timely. It should have happened a long time ago. The promoters of these schemes should not have been allowed to drag people into schemes, grab their money and run off into the business world and see those people persecuted. (Time expired)

Mr WINDSOR (New England) (1.02 pm)—I was interested to hear the wide-ranging speech by the member for Canning. I would like to make a few comments on tax reform and tax policy generally but, firstly, I extend my congratulations to the Treasurer on his 10 years of service to the nation. Obviously there have been occasions when we have disagreed with him, but I think the Australian people, in general at least, would suggest that he has been able to keep a reasonably firm rudder on the economy over his 10 years. The next 10 years will be different. A number of tax reform issues are coming forward. It has been one of the positives of the last six months that many members have raised those issues. The Parliamentary Secretary to the Minister for the Environment and Heritage, who is at the table, Mr Hunt, is one of these people, and there are others as well.
Before I get into the general tax reform area and the changes that I believe need to be looked at, let me say that the concentration on tax policy that has been a feature of the last few weeks should not forget about the priorities of the electorate. In my electorate—and I think most surveys that have been carried out in other electorates show this—there is a feeling, irrespective of the custodians in some cases being, obviously, the states, that the spending on the health budget needs to be increased both at a state and Commonwealth level. I would argue that in any reform that takes place the key focus should be on health and education spending. It would be counterproductive to give back $2 or $3 a week to the electorate at large through tax reform if people were not able to engage a doctor or find a bed in a hospital or send their children to university. A balancing act needs to occur. We do not want to lose sight of what our taxes are raised to do. There is a legitimate debate about how we raise that money, who we raise it from, and how it is spent.

I would like to mention a few things about policy changes. Whilst the parliamentary secretary is at the table, I will proceed to an issue that is of major concern in the north of New South Wales. I know he has recently spent some time looking at the Cubbie issue; I will not debate that matter today. In the Namoi Valley, he would probably be aware of the issue of Commonwealth government taxation policy and the way it is impacting on the compensation that is due to the ground water entitlement holders for the loss of ground water entitlement. The irrigators in that area, I stress, are ground water irrigators, so the water they are using cannot be just left to the market, because it is not fluid in that sense; it is ground water. It is not to be confused with water held in storage or in the river systems.

But the ground water users in that area—and there are something like 700 of them—agreed, through the National Water Initiative process, to embark upon a three-way compensation arrangement: $50 million to be contributed by the Commonwealth government, $50 million by the state government and $50 million, partly in kind, by the entitlement holders. This was to establish a process so that the entitlements could be adjusted down to a sustainable level, and I do not think anybody would argue about that. In a sense, current water entitlement holders were embarking on this process of adjustment for the long-term good of the ground water resource and the obvious benefits that will have for future generations.

The Prime Minister and the then Premier, Bob Carr, announced this program with great glee and saw it as one of the initiatives of the National Water Initiative. What they did not happen to say on that day—and the irrigators have only recently found out about it—is that the contributions being made by the irrigators, the state and the Commonwealth are going to be assessed as income for taxation purposes. So, even though the Commonwealth is giving a third of the money—and the entitlement holders are very appreciative of that—in some cases, depending on the individual’s taxation system, some of that money will be totally returned by way of income tax assessment. The problem there is that they are actually losing a capital asset that should not be assessed as income, and there is a difficulty here. I have raised this issue with the Prime Minister on a couple of occasions, and I thank him, for he has written back as well as having answered questions in question time. The problem is that, in discussions with the taxation commissioner, the Prime Minister is saying that, based on long-term arrangements, this compensation would be considered as, in a sense, a subsidy for or a bounty to those people and, as such,
be assessed as income. That rankles the entitlement holders because they were not told that this would be assessed as income when they entered into the arrangement as a one-third shareholder. However, the Prime Minister had that determination from the taxation commissioner.

The difficulty here—and this is why I am pleased that the Parliamentary Secretary to the Prime Minister is here today—is that we should not keep going back decades and, in a sense, applying old tax law to new resource management policy. The government deserves to be congratulated for putting in place the National Water Initiative. There are a lot of jagged edges, and it will take time to be bedded down, but the general principles are good. The general principles of looking at water across state boundaries and working with users of water and with the environment towards sustainable goals are good objectives. The parliamentary secretary is attempting to do that, I hope, with the debate about what is happening on the New South Wales-Queensland border with Cubbie Station. The Premier of New South Wales, the Prime Minister and others took great credit in putting in place the ground water program, one of the first initiatives of the National Water Initiative. In effect, the users of the water, the state and the Commonwealth, under the so-called leadership of the Commonwealth through the National Water Initiative were able to come to an agreement where these people could be assisted, and the environment generally, and the resource made more sustainable. But, at the first jump we saw a determination by the Australian Taxation Office that this is to be assessed as income, because, in the Prime Minister’s words, that is the way it has been done; it was done by the Labor Party, and it has been done by the coalition.

The suggestion I would make to the parliamentary secretary and to the Prime Minister is that we are entering an era of new resource management policy. If this cannot be avoided by way of current tax law, we need to adjust the tax law to take these new initiatives into this century. With something like the compensation arrangement for the loss of an entitlement, the recognition—even though I have some argument with this—of the property right issue in the National Water Initiative and some of the COAG arrangements and the national action plan agreements et cetera that have been put in place, our tax law does not reflect on that favourably. The precedent that is going to be set here if this is allowed to take place will have an impact on any entitlements, particularly in the farming community, where it may be in relation to the reduction in land clearing for the greater good of the community, where a compensation arrangement is put in place, or it may be for further reductions in property rights for water entitlement holders in other valleys, in ground water systems or in storage systems. In Cubbie Station, for instance, there may well be undertakings that governments can put in place to achieve a more sustainable outcome.

This first hurdle has to be overcome. There are a number of ways that that can happen, but I make the plea today that, if we get this wrong at the start, it not only is bad policy but sends a dreadful signal to the current users of an entitlement that was issued by government in a legitimate sense, and investment took place based on those entitlement arrangements. It will send a dreadful message to anybody who has an entitlement and is involved with the National Water Initiative or other resource management initiatives. I would encourage the parliamentary secretary to take those comments on board.

There is another issue with regard to water tax. I was amazed yesterday as I listened to the answer to a dorothy dixer from the member for Barker to the Minister for Agricul-
ture, Fisheries and Forestry. The minister was berating Premier Beattie in Queensland for putting on a $100 bore tax and a proposal for some sort of windmill tax. I agree that that is quite ridiculous, but the Commonwealth government is imposing a tax not only on its own contribution but on the state contribution and the irrigator contribution through the National Water Initiative. I do not think the minister for agriculture can hold his head up high in relation to that general issue.

Another issue I raised yesterday similar to this was about the Australian Rail Track Corporation. One of the good programs the government has put in place—and I congratulate it—is the cap and pipe program, which takes pressure off the Great Artesian Basin. These artesian bores were spewing water out willy-nilly 24 hours a day into bore drains, and those bore drains would go some hundreds of kilometres, in some cases, and locate water to the appropriate properties. The government, in conjunction with the states—I think it is 20 per cent from each of them and 60 per cent from the landholders—has embarked on a cap and pipe program where it caps the bores and runs polythene pipe to these various properties. There are massive savings in water—it is a great initiative—but bear in mind the landholders are paying 60 per cent of it for the greater good of the resource; and there are those issues again.

I received some messages from people in the Burren Junction area. I will use it as an example; I am sure it is happening in other areas where the cap and pipe program is in place. The railway line through Burren Junction has had bore drains running underneath it for decades. Under the cap and pipe program, part of the process is that it will bore under the railway line and put a polythene pipe in. The Australian Rail Track Corporation, which is fully owned by the Common-
wealth government, is charging $1,000 for that to occur under its land. Worse than that, it is charging a fee of $200 per annum to allow that pipe to be there, even though the bore drain has been there, in some cases, for 80 or 90 years—nearly as long as the railway line.

I again say to the Parliamentary Secretary to the Prime Minister: when we are talking about tax and the signals it is sending, particularly in the resource sustainability areas, we have to get serious about using some of these opportunities to raise revenue. We promote a program, and that is good—both of those programs are good—but there is this little sting in the tail that claws back money or makes people pay for something that they have not had to pay for in the past.

There are a number of other issues. Superannuation is an issue that everybody understands. It is a position that has been bastardised over the years by a range of governments in terms of the take at the start, the take in the middle and the take at the end. I know—and I congratulate the Treasurer on this—that positive moves have been made in relation to that, but if we are serious about the future of our aged we must address that issue.

I noticed with some interest the other day that Paul Keating was saying that two of the things he regretted in instituting the superannuation arrangements were some of the clawbacks that were put in place and the rate of nine per cent, which in his view was too low. The first objective must be that we remove all taxation from superannuation, because it would send a positive signal about saving for retirement rather than the one that exists now, which at best is a mixed message and at worst is a negative one.

The fuel taxation arrangements are another area that, if we are serious about tax reform, we need to look at. We are raising
$14 billion from fuel taxation; we are spending about $2 billion back on roads. We should not be doing that. Any fuel tax that is charged should go back on roads. If it is not required for roads, it should not be charged at all. Obviously people will say, 'You've got to get money from somewhere, and fuel taxation arrangements have been a source of income for government.' If we are serious—and some people would consider this political dynamite—then we really do need to have a close look at the rate of GST. We also need to look at how a consumer tax—and I am not in favour of it being applied to food—can raise some of the revenue that is being raised through the disjointed fuel tax and superannuation arrangements that are currently there. If the Treasurer is looking at genuine tax reform, he really must have a look at the goods and services tax area.

Zonal taxation is an issue that is raised from time to time, particularly in relation to regional areas, trying to overcome some of the bottom line factors about locating business in country areas and the economies of size of some businesses being located in city environments. If we are serious about changing the demographics and encouraging regional growth, zonal taxation is one of those things that, if plugged into some of the renewable energy areas, could help drive developments in many country areas.

In conclusion, I reiterate the point I made at the start of my speech. Personally, I believe we really do need to do something at the lower end of the tax scale to have a direct incentive that encourages people to work rather than concentrating on the top end like we have in recent years. Irrespective of how the reform is done and how the cards are juggled, the first area that has to be written on the top of the balance sheet is health. Irrespective of who gets the money and how it goes through the states or whether those arrangements are rearranged, you have to make sure that particularly health and education, those key issues, are adequately funded.

In the other areas, I think we have to start sending positive messages about saving for our future and addressing the various issues with regard to fuel. Australia prides itself on being competitive overseas but at home we have shackled ourselves with virtually a 50 per cent goods and services tax on the use of our major energy sources: petrol and diesel. I encourage the Treasurer, the parliamentary secretary and the Prime Minister to take those few comments on board and to also do something about the taxation anomaly in respect of water entitlement holders.

Mr JOHNSON (Ryan) (1.22 pm) — It is a pleasure to speak in the parliament today on this historic day in Australian politics, which marks the 10-year anniversary of the election of the Howard government in March 1996. I think the people of Australia will be well pleased with their investment in March 1996. This government has embarked on enormous reforms, and it has taken on initiatives to improve the lives of the people of Australia.

I congratulate the Prime Minister and the government. I commend the Treasurer and the Minister for Foreign Affairs for the achievement of 10 years in their respective roles. They have really been the cornerstone of this government’s success. As the Prime Minister said last night, we do have to thank the people first. We thank the people of Australia who placed their faith in us. Politics is all about making a difference. Politics is about changing people’s lives for the better to give their families and their communities the opportunities to flourish and to prosper.

Mr Griffin—Mr Deputy Speaker, I rise on a point of order. The member has been banging on with an advert for the government for the last minute and a half. He has not addressed anything to do with the bill. I ask you to draw him back to order.
The DEPUTY SPEAKER (Mr Wilkie)—The member has only just started his contribution. I am sure he will move quickly to the bill.

Mr JOHNSON—This is a day of goodwill amongst all of us, as it should be. I am terribly disappointed that the shadow minister would raise quite a spurious, trivial and vexatious point of order. That is just a perfect example of why the federal Labor Party sits in opposition.

I am pleased to speak on the Tax Laws Amendment (2006 Measures No. 1) Bill 2006. Before coming to that, I want to take the opportunity in the parliament as the federal member for Ryan to thank the people of Ryan who placed their faith in me. I have had the great privilege of sharing in two of the four successive election wins of the Howard government. In 2001, I won the seat of Ryan by defeating a sitting Labor member, which I continually remind my colleagues of on this side of the parliament.

This bill is important because it is in the context of Australia’s economic prosperity and good governance on this side of the parliament. I notice in the gallery some young Australians—some students from a school somewhere in this country, I do not know where—wearing yellow T-shirts. I welcome them to their national parliament. It is fantastic that they have the opportunity to come and visit their parliament. This is a chamber of democracy, and democracy has been very much in operation over the last four years, when the people placed their faith in the Howard government. Why have people placed their faith in the Howard government? It is because they have confidence that the Prime Minister and his team have the capacity to govern in the people’s interests.

Mr Griffin—Mr Deputy Speaker, I rise on a point of order. Once again, it is about relevance to the bill at hand. The member for Ryan has mentioned the name of the bill once but, for 3½ minutes now, all he has done other than that is to do a paid political broadcast.

The DEPUTY SPEAKER—The member for Ryan—

Mr Johnson interjecting—

The DEPUTY SPEAKER—Member for Ryan, I will rule on the point of order and then I will call you. The member for Ryan has only just started his contribution—as you said, he has had three minutes. I am sure he will refer to the bill very shortly and make some relevant statements. The member for Ryan has the call.

Mr JOHNSON—This bill is about taxation. This bill is about economic management. Of course I am entitled to talk about the government’s record, because that is why the people of Australia voted for us. For the life of me I cannot understand why the shadow minister would contest my right to speak on the bill and to draw into that my comments about economic governance and credibility. If people are listening to this debate today, the two interventions that I have had from the shadow minister would quite clearly demonstrate to them the lack of focus by the opposition on matters of economics.

The bottom line is that the people of Australia vote for a government to ensure that that government takes into account their interests, including taxation. I will come to the relevance of this bill in a minute. Part of my presentation here in the parliament is to talk about the qualities that have made this government very successful, because those qualities are reflected in policy. They are reflected in legislation.

Mrs Hull—Hear, hear!

Mr JOHNSON—I am delighted to have the warm support of my colleague the member for Riverina, because she very strongly
shares my view of economic credibility: it is economic credibility which the people of Australia consider most important when it comes to matters of who they will support at a federal election.

In 1996, we came to office to fix up the mess that the Keating government had left behind. I want to remind the parliament and the people of Australia of a quote from a current Labor backbencher in May 1991, who was the Parliamentary Secretary to the Treasurer at the time. I thank the Treasurer for reminding us of this very important comment. This is what Bob McMullan said to the *Canberra Times* in May 1991:

I know that it is unfashionable to have anything positive to say about the Australian economy at present. However last week I had the opportunity to represent Australia at meetings of the International Monetary Fund...three things struck me during the course of these meetings. First, we should never forget our relatively favourable situation. As I have said before in these articles when compared to the problems of Mali, Peru or Bangladesh all Australians should rejoice in our good fortune – however much we are determined to improve our own position.

My goodness! In 1991 a member of the executive was talking about Australia in the context of Mali, Peru or Bangladesh! Had we got to such an awful position in 1991 that we had to be compared to these three countries? I took the liberty of finding a report from the US government on Bangladesh. I thought I might talk about this for a moment. The CIA *World Factbook* makes the following remarks on Bangladesh:

Bangladesh is one of the poorest nations in the world. The economy is based on the output of a narrow range of agricultural products, such as jute, which is the main cash crop and major source of export earnings. Bangladesh is hampered by a relative lack of natural resources, population growth of more than 2% a year, large-scale unemployment and a limited infrastructure; furthermore, it is highly vulnerable to natural disasters... Alleviation of poverty remains the cornerstone of the government’s development strategy.

There you go: ‘Alleviation of poverty remains a cornerstone of the government’s development strategy.’ By comparison, this government is talking about things like the Future Fund, putting away billions of dollars to fund superannuation liabilities, compared to a country that is just trying to address poverty issues. What a profound commentary on the Labor government under Paul Keating, which the people of Australia threw out comprehensively in 1996.

It is very important that the people of Australia get reminded of these sorts of things. I know that perhaps sometimes we might seem to be a little bit repetitive on this side of the parliament, talking about what happened under the Keating government. But it is very important that the people of Australia, and certainly the people of Ryan, are reminded from time to time what capacities the Keating government had to take us into great mess. That was only a signpost as to what a future Labor government would do. We do not want to let our fellow Australians forget about Labor’s final budget. Let me see: in 1995-96 it was in deficit to the tune of two per cent of the country’s GDP.

**The DEPUTY SPEAKER**—Order! The member for Ryan will resume his seat. I have granted the member for Ryan substantial leeway in his discussions on this matter, but he is not referring to the contents of the bill. I draw him back to the bill, which is regarding tax laws amendments, and ask him to speak to the bill.

**Mr JOHNSON**—With all due respect, this is a bill about taxation, this is a bill about economics broadly, and the context of this bill is the economy.

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**CHAMBER**
Mr Kelvin Thomson—You’re talking about 1995!

Mr Johnson—Are the Labor Party suggesting that taxation is irrelevant to economics? What have we come to that a member of parliament cannot talk about the record of the Labor government? They are presenting themselves as the alternative government of this country.

The Deputy Speaker—Order! The member for Ryan will resume his seat. The member for Ryan is coming very close to reflecting on the chair, in which case he will be dealt with and removed from this chamber. I have called on the member for Ryan to refer to the bill and I will call him back to refer to the bill.

Mr Johnson—This bill is about taxation. Schedule 1 applies to temporary residents exempting their foreign investment income from Australian taxation. The exemption is confined to foreign sources of income only and does not apply to Australian sources of income, ensuring that the measure does not disadvantage Australian employees compared with temporary residents. This amendment will allow business greater opportunity to attract internationally mobile skilled labour to Australia by reducing the costs to Australian business of bringing skilled persons to work in Australia.

This issue of bringing skilled workers to Australia is highly relevant at this time because of the very low unemployment rates we have in this country—five per cent, almost 30-year lows. It is a challenge for Australian businesses and employers to try and get highly skilled labour into this country. As a government we must do all we can to encourage tax receipts to be fully paid. We do not condone Australians avoiding tax or trying to evade tax. That is not part of the compact between all of us as Australians. So it is not only important as a measure of running the country but it has an ethical or moral dimension to it that those who are required to pay their taxes do so legitimately and entirely.

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 of Taxation will be able to seek injunctions and enter into undertakings with promoters to stop the promotion of unlawful schemes. I know that the Commissioner of Taxation has taken a bit of a bashing from
members of parliament from time to time. He does hold an independent office. I think it is important that whoever holds that position is mindful of the enormous powers that he has as well as being mindful that with the positions of Australians, whether they are in business or pay-as-you-earn employees, the corresponding degrees of influence are quite stark. It is important for him—or her, in the future—that he is mindful of his position and the enormous responsibility he has to this country. I am sure that all the commissioners of taxation are people of integrity and are aware of their significant office in this country.

As the local member, from time to time Ryan residents come to me to talk about taxation difficulties and problems they are having with the ATO. It is important not only that we represent them as members of parliament but that we from time to time remind the commissioner not to be too remote from everyday Australians. It is quite easy for highly paid, highly important officers of the government or of the Commonwealth to sometimes forget everyday Australians throughout this country when it comes to taxation issues. This amendment bill gives him important provisions to stop the promotion of unlawful schemes. According to the explanatory memorandum:

Schedule 4 to this Bill amends ... A New Tax System (Goods and Services Tax) Act 1999 (GST Act) to ensure that certain prepaid phone products are treated as ‘eligible vouchers’ for the purposes of the GST Act.

Also, it will ensure that GST is paid on the face value of a voucher when it is used. The amendment does not alter any definitions under the act but simply confirms the policy intent that the GST will be applied to these products when they are used and not when they are sold. As the amendment confirms the industry’s existing practice as treating phone cards as eligible vouchers, it applies retrospectively from 1 July 2000. This amendment is primarily designed to provide consistency between industry best practice and the legislation.

These are important schedules. These are important points that need to be drawn out in the parliament, and I draw them out for the benefit of my constituents. In the context of broader taxation related matters, the government introduced with great courage and great integrity the taxation reform packages, which included the GST, and the people of Australia endorsed that policy initiative by re-electing the government in 1998 and 2001.

I think it is a strong reflection of what politics is all about and what policy is all about. It is to make a difference. The GST has made an enormous difference to this country’s governance. We all know that the state governments receive entirely every dollar of GST revenue. Not a single dollar comes to the Commonwealth at all and not one single dollar comes into federal consolidated revenue. In Queensland, my home state, the GST amounts to some $7.7 billion in revenue for the state Labor government of Peter Beattie. Again, in the parliament, I encourage him to spend that money on vital projects in health, infrastructure and roads. In my electorate Moggill Road is important.

We know that the GST goes to the states. In question time not too long ago the Treasurer again reminded us of the recently appointed Premier of Western Australia saying that the GST, as a measure of the sweeping taxation reform initiatives of the Howard government, was all about the national interest. I think it is important for us to remind ourselves, as well as our constituents and the wider Australian community, of how important taxation reform is to this country. It does make a difference.
As I have said, politics is all about making a difference. Politics is about improving the lives of our fellow Australians. We are highly honoured to be members of this parliament. Since Federation there have been only 1,000 men and women of Australia who have had the great privilege of coming into this parliament. I, as the fourth member for the federal division of Ryan, every day remind myself of the great privilege that I have in being a member of this parliament. On this historic day, I rededicate myself to serving my constituents—as I am sure all members of this House do to serving their respective electorates—and I know that the Howard government also recommits itself to governing in the interests of our country.

We are here for that purpose. Service in political life is a noble profession. It is a highly important one. It affects businesspeople in the country, it affects mums and dads, it affects schoolchildren and it affects funding for schools, funding for hospitals and funding for roads. It affects every facet of life and it is important that we keep our eye on the ball, which is why the government has had the faith of the Australian people on four successive occasions. This coalition will continue to work together very strongly and very positively in the interests of our fellow Australians. I commend this important bill to the parliament. It continues the hard work of the government and it continues the ideas of the government in the service of the Australian people.

Mr KELVIN THOMSON (Wills) (1.42 pm)—I rise in support of the Tax Laws Amendment (2006 Measures No. 1) Bill 2006 and in support of the amendment foreshadowed by the member for Hunter. The purpose of this amendment is to align the definition of ‘facilitation payments’ in the Criminal Code Act 1995 and the tax act 1997 in order to specify that payments made to facilitate or secure the performance of routine actions of foreign governments are to be of a minor value. By aligning these definitions in these acts, this foreshadowed amendment closes a loophole that currently allows scope to make facilitation payments of any amount, as long as you can argue that it is minor in nature.

By strict comparison with the value of Australia’s $5 billion wheat trade, I suppose you could say that in one view the $300 million kickbacks paid to Saddam Hussein over a number of years are minor. However, if this loophole did not exist, Australian law would have provided yet another legal impediment and yet another flying red flag to alert the likes of Mr Flugge and, indeed, the Minister for Foreign Affairs and the Minister for Trade that hundreds of millions of dollars were being provided via Australia to a regime known to support terrorism.

We are told that the Middle East and Asia are such corrupt places that we have to do this in order to do business there. No, we do not. It is not that they are corrupting us; it is that we have been corrupting them. It is time to stop it, and that is why I strongly support the member for Hunter’s foreshadowed amendment. I think we have to say that there will be no more trying to get around the United Nations sanctions, no more ignoring the international standards and no more looking the Canadians and the Americans in the face and telling them barefaced lies.

We can start right here by aligning Australian tax laws with our Criminal Code so that payments of millions of dollars to dictators cannot slip through an Australian loophole. If this loophole had not existed, perhaps the Howard government would not have posted Mr Flugge to Baghdad, paid him $1 million from the foreign aid budget and provided him with a slush fund with millions of extra Australian taxpayer dollars. If it were not for this government’s track record, it would be
beyond comprehension that any government in Australia would ever have overseen such shameful deeds and now be rolling out such a shameless rosy-cheeked cover-up as the Minister for Foreign Affairs has been doing.

The member who spoke before me, the member for Ryan, wanted to note that this is the 10th anniversary of the Howard government. The foreshadowed amendment would not be so urgently needed if the government were not so out of touch with community standards and world developments. This amendment is closing a loophole that would never have been exploited under the watch of reliable ministers. It is picking up the slack of an arrogant government. Ten years on from the 1996 federal election, Australia is coasting with ‘it wasn’t me’ ministers at the helm—people who claim, ‘We weren’t there; we knew nothing; this is all a great surprise to us.’

On the back of the last Labor government’s economic reforms and a booming world economy, Australia is rolling along; but, in the absence of moral governance and prudent national investment, our future is less secure than it was in 1996. Our medium- to long-term economic security and international standing have been largely squandered and in 2006, after all the work of the past decade, our future is less secure than it really ought to be. Needless risks have been taken by the Howard government to enable needless indulgence for which we may well end up paying a price, and the visionless coasting of the last 10 years has left us unprepared to handle what will surely be a changing and uncertain world.

The tax loophole that I have been speaking of has come to light as a result of the AWB inquiry. My colleague the member for Hunter has foreshadowed that, during the consideration in detail stage of the bill, he intends to move a technical amendment which will seek 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—

The DEPUTY SPEAKER (Hon. IR Causley)—I remind the member for Wills that he cannot debate an amendment which does not exist. At this stage we do not have an amendment, so he cannot debate it.

Mr KELVIN THOMSON—Thank you, Mr Deputy Speaker. I am referring to the remarks that have been made in debate already by the member for Hunter. The member for Hunter told the parliament—and I wish to reiterate and support his remarks:

... 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.

The DEPUTY SPEAKER—I remind the member for Wills that I was in the chair when the member for Hunter spoke in this debate. He did not move any amendments, he certainly did not go into any detail and we cannot debate an amendment that has not been seen.

Mr KELVIN THOMSON—Mr Deputy Speaker, I am speaking the very words that the member for Hunter spoke. If you were in the chair when he was speaking and did not pull him up when he was speaking, I am surprised that you now believe what I am saying is out of order.

The DEPUTY SPEAKER—if the member for Wills wishes to reflect on the chair, I will deal with him.
Mr KELVIN THOMSON—Mr Deputy Speaker, I am simply repeating the remarks of the member for Hunter. If the remarks of the member for Hunter were in order, then surely my remarks are also in order.

The DEPUTY SPEAKER—I have just said to the member for Wills that the member for Hunter did not go that far. He did indicate that he was going to move an amendment, but he has not moved an amendment. We have not seen the amendment, so it cannot be debated.

Mr KELVIN THOMSON—Certainly, Mr Deputy Speaker, but I am making exactly the same remarks that the member for Hunter made to the House and I am happy to show them—

The DEPUTY SPEAKER—I will listen very closely.

Mr KELVIN THOMSON—Certainly, Mr Deputy Speaker, but I am making exactly the same remarks that the member for Hunter made to the House and I am happy to show them—

The DEPUTY SPEAKER—I will listen very closely.

Mr KELVIN THOMSON—Thank you, Mr Deputy Speaker. The member for Hunter suggested that the government should support his foreshadowed amendment. He said that, if the government only wanted to support their own ideas, he invited them to come back later with their own amendment and the opposition would be very happy to support it. I support his remarks. He further went on to say:

... 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.

It needs to be made clear that AWB type payments of high value cannot be deductions; they are already illegal under the Crimes Act, and we want to make sure that the tax act is aligned with those provisions.

There are four schedules to this bill. The first of those schedules relates to tax changes for nonresidents. It is designed to remove some harsh penalties and to permit some additional concessions for nonresidents working in Australia in relation to their foreign sourced income. While the principal targets of the proposed changes are foreign sourced executives, some high-skilled professionals have also been impacted on by the current tough provisions. The current law has two prime effects: imposing a tax on certain unrealised capital gains for temporary residents leaving Australia and giving a tax-free status to foreign sourced income for temporary residents for four years.

The current provisions work as follows. When a resident for taxation purposes becomes a non-resident—for tax purposes, usually after 12 months—a capital gains tax event is triggered and what are referred to as the deemed disposal rules apply. Unrealised gains on assets without a connection to Australia are deemed to be realised and capital gains tax applies. An exception applies for short-term residents—that is to say, people who have been here for less than five of the last 10 years; the tax can be deferred until realisation, with subsequent gains being assessable. Under the United Kingdom and United States double-tax treaties, such gains subsequent to a residency change are not assessable.

Secondly, back in 2002, the government introduced an exemption to temporary residents from Australian tax on foreign sourced income, including interest withholding and capital gains, for four years. The relevant schedule was removed from the bill in the Senate and the amended bill passed the House. The rationale for the government’s proposal was that the high marginal tax rate in Australia meant that Australian tax on foreign sourced income was higher than the tax the expatriate would pay overseas on the
same income. This could inhibit attempts to attract key personnel from offshore.

The current bill has three effects. Firstly, it removes the deemed disposal rules for temporary residents for assets without a connection to Australia, excluding employment income in Australia, without that five- to 10-year rule which I referred to earlier. Secondly, foreign sourced income for temporary residents is excluded for income tax indefinitely, for more than the current four years. And, thirdly, temporary residents do not pay tax on interest income received overseas.

The current measures go beyond the 2005-06 budget commitments by abolishing all time limits and extending the withholding tax exemption to income from all foreign liabilities for temporary residents. It does not reduce the compliance costs but it does extend the concessions in some cases.

There are economic benefits associated with reducing impediments to skilled foreign employees taking up positions in Australia. We hope that this will, in some measure, boost labour productivity in important sectors. However, I express my regret—as I have done previously and as some of my colleagues have done on other occasions—that this government has not made the kind of investment in skills training that we would want to see which would ensure that the need for skilled migrants is minimised. We should be doing better by way of training our own. Regrettably, this government has failed in that important national task and has dramatically ramped up skilled migration in order to meet its own shortcomings.

The second schedule refers to ‘black hole expenditures’, which were targeted for relief in the Ralph Review of Business Taxation. They were to be dealt with under the now abandoned tax value method. Black hole expenditures are those which were basically considered legitimate but fell outside current rules for deductibility. The current bill really only extends deductibility for expenses associated with setting up a now defunct or changed entity. This is not a measure about loss carry forward provisions but about deductibility of expenses for an entity which is not now existent. The expenses do not meet the loss carry forward provisions. Some tests still need to be met in order to claim the deductions.

Labor has asked the government for advice as to whether the payments by James Hardie to the compensation fund for asbestos victims are covered by this provision. The tax commissioner has rejected the deduction under current law. This is because the compensation fund is not the same legal entity as the James Hardie corporation as it currently exists. We think this schedule should be supported because it clarifies a significant uncertainty in tax law.

The third schedule goes to empowering the Commissioner of Taxation to impose penalties on promoters of tax minimisation schemes. Currently, the commissioner cannot do this but can only hit the victims of such schemes after the event. This has resulted in something of a debacle in relation to mass marketed tax schemes and employee benefit arrangements, where thousands of taxpayers have become victims of exploitation from aggressive tax minimisation strategies, with penalties attached.

This schedule now empowers the tax commissioner to seek fines of significant value from the actual marketers of the schemes and to get an injunction from the Federal Court to stop the schemes being promoted. This gives no relief to previous victims and it ought to be noted that some 60,000 taxpayers remain adversely affected. I think there is also a fair case for arguing that this scheme comes a number of years too late.
It seems that an accountant who advises a client on one of these schemes will not be affected unless they positively devise or market the scheme. So it is possible that some unscrupulous tax advisers will escape the net by couching the language of their advice in a manner that is not technically a marketing of the scheme. This ambiguity is a problem for the government. Expanding the definition of tax promotion would no doubt be difficult, legislatively, to achieve.

The major problem with the current measure is the uncertainty it creates. Advisers who advocate legitimate tax reduction arrangements will now be forced to seek a tax ruling in order to ensure that they are not covered by the arrangements and slip from being an adviser to a promoter. This would significantly increase tax office costs. The current estimate of an extra $7 million per year in costs may prove conservative. I think we ought to be looking for a guarantee from the government that funding would be available to the tax office to ensure that any ruling can be dealt with expeditiously. The bottom line, I guess, is that this measure is a step back from the draft of the bill. We are supporting it.

The fourth schedule concerns the GST on prepaid phones. Prepaid phone deals, usually to do with mobiles, often promise myriad conditional benefits—such as free SMS discounts or cash-back deals. This has led to some uncertainty as to how to levy GST on these products, which are essentially vouchers to use a certain number of calls at varying rates at varying times. The easy way to deal with this is to simply specify that the stated value of the voucher is the GST taxable supply. The bill makes this necessary clarification, which increases GST revenue by $10 million per year.

I want to reiterate, as I indicated at the start, Labor’s intention to move an amendment. That amendment is to align the definition of facilitation payments in the Criminal Code and the tax act so that we can take action about the potential tax deductibility of facilitation payments.

I think that people right around Australia were outraged to learn that some of the kickbacks—the bribes—being paid by AWB were potentially tax deductible and that we have loopholes in our legislation that might enable that tax deductibility to be provided. We on this side of the House think that is absolutely scandalous. We want to make sure that there is no possibility of this happening in future by aligning the definition of ‘facilitation payments’ in the Criminal Code Act with that of the tax act.

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

QUESTIONS WITHOUT NOTICE

Oil for Food Program

Mr BEAZLEY (2.00 pm)—My question is to the Deputy Prime Minister and Minister for Trade. I refer to my three questions yesterday about when the Deputy Prime Minister first became aware of the contents of the 10 April 2001 cable. Given that the Deputy Prime Minister undertook to check his records, and given he was able to provide a specific answer in relation to another cable yesterday, is the minister today able to answer the question?

Mr VAILE—I thank the Leader of the Opposition for his question. He might like to listen to the answer. There was a series of questions on cables yesterday and, as he knows, there are probably over 100,000 cables in the system each year. Cables are sometimes brought to the attention of ministers by staff; sometimes ministers are just
briefed by staff. Yes, I said I would check my records, and we have no record that it was actually brought to my attention—that it was printed off and presented to me. I have no recollection of personally reading the cable, but certainly I would expect that staff at the time would have brought the general contents of that cable to my attention.

With respect to the subsequent issue, in the assertion being made by the Leader of the Opposition he referred to comments I made, I think on 8 November last year. I refer him to comments I subsequently made on 9 November by way of clarification. Even then the Labor Party were trying to muddy the waters on this issue. I refer him to the answer I gave on the 9th.

Exports

Mr HAASE (2.02 pm)—My question is addressed to the Deputy Prime Minister and Minister for Trade. Would the Deputy Prime Minister advise the House how the coalition government’s strong economic management has helped Australian exporters, and are there any alternative views?

Mr VAILE—I thank the honourable member for Kalgoorlie for his question. He represents an electorate in Australia that is a powerhouse of export at the moment. According to ABARE, forecasts for this year indicate that that is going to dramatically rise in the resources sector. But there is no doubt at all, in response to the member for Kalgoorlie, that Australia is a much better place economically today than it was 10 years ago—there is no question about that. During that period of time our government put the budget back in the black. From where it was for years and years, running deficit budgets, we eliminated government debt during that period.

We inherited a government debt level of about $96 billion as a legacy of Labor. We have restored Australia’s AAA credit rating. We have delivered more than 1.7 million jobs throughout the Australian economy and maintained an environment that has kept interest rates low. We have provided substantial tax cuts as the economy and the country could afford it. There are higher wages today, and the wages growth that has taken place during those 10 years has been based on productivity gains, not arbitrated outcomes, and there have been higher gains of real wages than in the 13 years of Labor.

Opposition members interjecting—

The SPEAKER—Order! The level of noise is far too high.

Mr VAILE—This has all delivered better living standards to all Australians. There has been more funding for health and education, defence and transport. The economic resilience of Australia has become the envy of the developed world. We all know what the alternative policies are. Every single measure we have introduced to improve the Australian economy over those years has been opposed by the Australian Labor Party every inch of the way.

I was asked about exports, and there are some interesting statistics. A few members of the Labor Party often have some comments—very unfounded and unsubstantiated comments—to make about exports. Exports in 1995 were worth $93.9 billion; in 2005, $176.7 billion. They went from $93 billion to $176 billion. Our resources exports, for the information of the member for Kalgoorlie—as I know he is terribly interested in this—are predicted to grow by a massive 36 per cent in 2005-06, off a high base, not a low base.

I was asked about alternative views, and I was interested to hear of a news report on 4BC radio in Brisbane recently. The member for Lilley was featured in that interview. The newsreader reported—and these are his words—the member for Lilley’s alternative
views: ‘There are claims the Howard government’s failure to increase Australian exports is detracting from economic growth.’ I do not know what going from $93 billion to $176 billion is, but it is certainly not a decrease. The member for Lilley went on to say: ‘In fact, our trade performance is flawed.’

We all know the track record of the member for Lilley. He has claimed from time to time that night is day and black is white, that a $600 family payment is not real money. He has claimed that an $80 billion increase in exports, from $93 billion to $176 billion, is a flawed policy and is not real. The Australian Labor Party, from the start of their 10 years in opposition, have opposed every single measure we have put in place to improve and strengthen the Australian economy—and they still do—and then they run around with weasel words to try and devalue the great achievements of Australian exporters.

Oil for Food Program

Mr RUDD (2.06 pm)—My question is to the Minister for Foreign Affairs. I refer to his statement to parliament on 31 October last 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 2004. Why did the minister mislead parliament by using the excuse that he had not been briefed on the name of the Jordanian trucking company when it has now been revealed that for six years he had known about the fact that a Jordanian company owned by Saddam Hussein’s regime had in fact been the subject of formal UN warnings concerning that company’s dealing with the AWB? Why did the minister mislead the parliament?

Mr Pyne—Mr Speaker, I rise on a point of order. The honourable member would know that, if he wishes to make the claim that someone has misled the House, there are forms of the House in which to do so. Question time is not one of those forms and the minister should not have to answer that part of the question.

The SPEAKER—The member for Sturt raises a valid point of order. I will call the Minister for Foreign Affairs, but he can ignore the last part of that question.

Mr Beazley—Mr Speaker, I raise a point of order on your ruling. For the 25 years I have been in this place, every opposition—Liberal or Labor—has been permitted to ask and have answered a question that is preceded by the expression or the accusation that a minister has misled the House. It has only been ruled out of order when members have used words like ‘deliberation’ or have gone further and used a word like ‘lie’. Accountability in this place will be impossible if a question like that is not permitted.

The SPEAKER—I will rule on the Leader of the Opposition’s point of order. I have indicated I will be calling the Minister for Foreign Affairs. In the earlier part of the question, as I heard it, the word ‘misled’ was also used, which I would therefore be ruling in order.

Mr DOWNER—First of all, I thank the honourable member for his question. I was going to make a personal explanation about this in any case at the end of question time, in response to an article along the lines of that question in the Australian Financial Review today, written by Mr John Kerin. I was asked a series of questions—which I am sure honourable members opposite would like to hear about—in one question by the member for Griffith on 31 October, and I gave a very comprehensive, although somewhat interrupted, answer. In response to that question, I said exactly this:

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. That is exactly right. The issue of the cables to which the honourable member refers, by the way, had been the subject of discussion and debate in the House on 3 November 2005 and in the Senate estimates committee on the same day. The opposition subsequently, this week, came into the House waving around these cables, trying to convince people up in the press gallery that there is something new here which had not been discussed right here on the floor of this chamber on 3 November.

What this episode shows is exactly what I have argued in question time over the last year—that is, the Leader of the Opposition does not do his homework, is not forensic, has not followed the issue and makes a series of empty, blustering allegations which are not based on the facts. The fact is: what I said on 31 October, I absolutely stand by.

Corporations Law

Mr CAUSLEY (2.11 pm)—My question is directed to the Treasurer. Would the Treasurer update the House on threats to business confidence and regulation in Australia? How could this affect Australia’s economy and what can the government do to address the issue?

Mr COSTELLO—I thank the honourable member for Page for his question. Australia has a very sound system of corporate governance and corporate regulation. Under the Australian Constitution, the Commonwealth has a corporations power, but it is a limited power. As a result of High Court decisions, the Commonwealth has had corporations legislation struck down in the past. In order to rectify that, it has been necessary for the Commonwealth to have a referral from the states so that it has full constitutional power over Corporations Law. That referral, which has been made in the wake of constitutional challenges, was for a limited period and is due to expire on 15 July this year.

The Ministerial Council for Corporations and the Standing Committee of Attorneys-General recommended in July 2004 that the referral be extended for another five years to 2011. The Ministerial Council for Corporations endorsed that decision in November 2004. South Australia and Tasmania have taken the necessary steps to extend that referral. Western Australia, Queensland, New South Wales and Victoria have not yet done anything. I make it clear that, if this referral is not given to the Commonwealth before July 2006, Australia’s system of Corporations Law will, in significant respects, be unconstitutional and there will be no certainty in the administration of companies in this country.

I hope the reason why the referrals have not been given is that the states have not yet got around to it and that they intend to do so before July 2006. I was concerned, however, that the Premier of the member for Lilley’s own state has suggested that the states may not be giving that referral of the Corporations Law because they believe that, by refusing to give that referral, they will undermine the government’s industrial relations legislation.

It is known that the states want to take a constitutional challenge to the industrial relations legislation. It is known that that legislation is based on the corporations power. But if the states decide, as a technique in trying to undermine that industrial relations legislation, that they will not extend the referral to the Commonwealth, the whole system of Corporations Law in Australia will be under threat. As a consequence—and I cannot put this any more strongly—Australia’s economic position will be under threat. This is not a plaything. The Corporations Law governs every company in Australia. If that law
is at risk of being declared unconstitutional, then the effect on the Australian economy would be very severe.

There are now, unfortunately, only three months to go before those referrals can be effected. I call on each and every one of the states to immediately take the steps that are necessary. We cannot afford to have the Corporations Law at risk for one day in relation to its importance here in Australia and the economic effects such uncertainty would have.

Oil for Food Program

Mr BEAZLEY (2.16 pm)—My question is to the Deputy Prime Minister and Minister for Trade. I refer to his answer to my previous question. Given the Deputy Prime Minister’s admission for the first time today that he expects that his staff would have brought to his attention the contents of the cable of April 2001 from Bronte Moules, didn’t the Deputy Prime Minister mislead the House when he said on 8 November 2005:

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

Mr VAILE—They are not very smart on the Labor side. You continue to prove it. In answer to the last question I referred the Leader of the Opposition to my answer to a question on 9 November after he referred to a question on 8 November last year. He asked about a cable in April 2001. This is about an issue of port fees. That is the substance of the issue, if you go back to the cable. He is aware of the first cable. He is very well aware of the inquiry that was made by AWB and the advice given by the UN. That was given back to them. It is very easy to ask these questions in hindsight. The answer I gave to the question at the end of last year clearly identified and differentiated between concerns that were raised back then and allegations that were raised in the context of the Volcker inquiry—very different. I refer the Leader of the Opposition again to the answers that I gave him.

Ms King—You misled the parliament!

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

Mr VAILE—I did not mislead the parliament. I answered those questions very clearly.

Fiji Elections

Mr LINDSAY (2.18 pm)—My question is to the Minister for Foreign Affairs. Minister, what is Australia doing to ensure that the 2006 Fiji elections will be free and fair? Are there any alternative policies?

Mr DOWNER—I thank the honourable member for Herbert. He comes from Townsville and we sometimes call Townsville ‘the Geneva of the Pacific’ because peace talks are being held there for the Solomon Islands and other places. It would not have happened if it had not been for the hard work of the current member for Herbert. It never happened when there was a Labor member.

The government welcomes yesterday’s announcement that Fiji will hold its elections between 6 and 13 May. When I was recently in Fiji I announced $3 million to assist with election planning and budgeting. Today I have announced a further $1 million to assist with voter registration, electoral officer training and support for the Fiji police and logistics.

Prime Minister Qarase will invite Australia to send observers to the elections. I am sure there will be a lot of volunteers from within the House for that position. It is our view—and I am sure all members of the House share this view—that the elections should be free and fair. Fiji has worked hard to recover from the 2000 coup. Its prosperity, particularly as tourism is so important to Fiji, depends very substantially on political stability and economic growth. It is important, let
me say—particularly in the context of some of the comments that Commodore Bainimarama has made in recent times—that the military stays out of politics and respects the authority of the democratically elected government and the rule of law.

The honourable member asked if there were any other policies. If I may say so, the member for Maribyrnong, as the shadow minister for overseas aid and Pacific island affairs, knows a lot about these issues. The Leader of the Opposition described him as an excellent shadow minister. As I said yesterday, he has done a good job in that role and the Leader of the Opposition has been happy to see him wiped out by union heavies in his preselection. The Leader of the Opposition has form on Fijian affairs, because anybody who has bothered to read Bob Hawke’s autobiography—it is an interesting read—will recall that Bob Hawke revealed that at the time of the 1987 coup in Fiji, which I think was the first of those coups, the Leader of the Opposition was the Minister for Defence and wanted to send the Australian military in to intervene in Fiji at that time. That is rather similar to his idea last year to send Australian helicopters into New Orleans during Hurricane Katrina.

Mr Albanese—Mr Speaker, I rise on a point of order relating to relevance. This was a very serious question. The foreign affairs minister answered it in a serious way—

The SPEAKER—I am listening carefully to the answer by the minister. I call the Minister for Foreign Affairs.

Mr DOWNER—Mr Hawke said in his autobiography that he regarded these ideas of the Leader of the Opposition as an ‘amusing excess’. The point, of course, is that the member for Maribyrnong knows a lot about Fiji but the Leader of the Opposition has not stood by him, so Labor’s one source of expertise on Fijian affairs has now been lost.

Oil for Food Program

Mr BEAZLEY (2.22 pm)—My question is to the Deputy Prime Minister and Minister for Trade. Can the minister confirm that his statement on 24 July 2002 that he was ‘in constant dialogue with the Iraqi government’ was made at the time of the dispute between the AWB and the Iraqi Grains Board about alleged contamination of a number of shipments of Australian wheat? When did he first become aware that the arrangements agreed by AWB and the Iraqi Grains Board to resolve this matter were in clear breach of UN sanctions?

Mr VAILE—The Leader of the Opposition refers to quotes and makes allegations. I will check that quote that he has referred to and see whether I made that comment and in what context. The most important point to make here, and this is something that is lost on the Labor Party, is that our responsibility on behalf of Australian wheat growers—with the knowledge that the AWB had continually said to us that they were operating within the guidelines of the UN Sanctions Committee and that we continually reminded them of their responsibilities in that regard right through the whole process of the program—was, when there were from time to time concerns about contamination as there were last year, that we represented the interests of Australian wheat growers to keep their trade flowing. I will check the assertion that the Leader of the Opposition has made about a comment I made in 2002.

Private Health Insurance

Mr ANTHONY SMITH (2.23 pm)—My question is addressed to the Minister for Health and Ageing. Would the minister advise the House how the government’s private health insurance rebate is taking the pressure off public hospitals? Could the minister further advise as to whether there are any alternative policies?
Mr ABBOTT—I thank the member for Casey for his question. I can inform him and the House that, thanks to the private health insurance rebate, nearly nine million Australians have affordable access to the private hospital system. That means they are far less likely to be competing for a place in very crowded public hospital queues. Fifty-six per cent of all surgery is now done in private hospitals. That is over one million procedures which would otherwise have to be done in the public system but for the government’s support for private health insurance.

I am afraid few members opposite appreciate the importance of the private health insurance rebate—but not the member for Hotham. The member for Hotham said when he was the leader of the Labor Party:

... I am absolutely committed to keeping the private health rebate.

It is payback time now. Today’s Australian quotes one preselector as saying:

Simon Crean’s interpreter rang last night and said please, please. And then Hong Lim rang nearly at midnight ...

... Hong Lim, he says that Labor has lost four times to the Liberal Party and it’s why we need a new person—

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

The SPEAKER—I thank the member for Grayndler for coming straight to the point. I am listening to the minister’s answer. I call the minister.

Mr ABBOTT—The preselector continues:

... Hong Lim, he says that Labor has lost four times to the Liberal Party and it’s why we need a new person to come up to win the election.

Mr Albanese—Mr Speaker—

The SPEAKER—Order! The minister has just begun his answer. Would the member for Grayndler resume his seat. I will listen carefully to the minister’s answer.

Mr Albanese—Mr Speaker, I rise on a point of order. Standing order 104 actually says:

An answer must be relevant to the question.

The SPEAKER—The member will resume his seat. I have just ruled on that point of order and I am listening closely to the minister’s answer. I call the minister.

Mr ABBOTT—So Mr Lim is supporting the member for Brand who is a two-time loser and attacking the member for Hotham who never had a chance to lose an election.

Mr Albanese—Mr Speaker—

The SPEAKER—Is the member for Grayndler raising another point of order?

Mr Albanese—It is the same one.

The SPEAKER—The member for Grayndler will resume his seat. I have ruled on that point of order and I am listening. If he allows the minister to answer, we will see if he is relevant under standing order 104. If the member for Grayndler wants to argue, I will deal with him.

Mr ABBOTT—I can only assume that in all of this something has been lost in the translation. To assist Labor Party doorknockers I table a Khmer language description of the government’s policies.
Mr Albanese interjecting—

The SPEAKER—Order! The member for Grayndler is warned.

Mr ABBOTT—Just because the member for Grayndler thinks that the private health insurance rebate has been a resounding failure, that is no reason for the member for Grayndler to want to get the member for Hotham. I found a very interesting book the other day called The Latham Diaries and I quote from it:

Ringing around Caucus—

Mr Albanese—Mr Speaker, for the fourth time there is a reason—

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

Mr Albanese—Are you going to rule on the point of order?

The SPEAKER—If the member for Grayndler wishes to raise a point of order, he is in order, but he does not reflect on the chair.

Mr Albanese—Far be it from me to do that but standing order 104 is very clear that an answer must be relevant to the question.

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

Mrs Bronwyn Bishop—Mr Speaker, on the point of order: I refer you to page 188 of the Practice where it says that members have been disciplined by the chair for persisting with matters after the chair has ruled. I ask you to deal with them.

The SPEAKER—The member for Mackellar will resume her seat. I am well aware of that part of the Practice. The minister has been referring to the question, he is in order, and I call the minister.

Mr ABBOTT—To quote from The Latham Diaries:

Ringing around Caucus ... is a unique experience. Here are the shockers I came across.

… … …

Anthony Albanese—When I rang him, he said—

Opposition members interjecting—

The SPEAKER—Order! The minister will resume his seat.

Mr Beazley—You have an opportunity here, Mr Speaker, to actually enforce a standing order. That remark has nothing to do with the question—

The SPEAKER—I have not called the Leader of the Opposition. I call the next question.

Mr Trevor Flugge

Mr RUDD (2.30 pm)—Can the Deputy Prime Minister confirm whether Mr Trevor Flugge or Mr Flugge’s team transported over $1 million in cash from Kuwait to Baghdad between May and July 2003? How much cash did Mr Flugge have discretionary use of during his Baghdad posting apart from his $1 million salary package?

Mr VAILE—In answer to the first part of the question, I have no knowledge of that. In answer to the second part of his question, this was dealt with and administered through AusAid, which I have no direct ministerial responsibility for. So, in answer to his question, I have no knowledge of that assertion or that allegation.

Australia-United States Alliance

Dr WASHER (2.32 pm)—My question is addressed to the Minister for Foreign Affairs. Will the minister update the House on the planned visit to Australia by the United States Secretary of State, Condoleezza Rice. What is the significance of our alliance relationship with the United States? Are there any alternative approaches?

Mr DOWNER—I thank the honourable member for Moore for his question and for his interest. I know his own constituents will be interested and pleased he asked the ques-
tion. The United States Department of State has announced that the US Secretary of State, Condoleezza Rice, will be visiting Australia from 16 to 18 March. This will be the first time that Condoleezza Rice has visited Australia as Secretary of State. It will be an opportunity for her to meet with the Prime Minister, the Minister for Defence and me. I think the Attorney-General and the Treasurer are going to have the opportunity to meet her as well. During her visit we will also have the first meeting at the ministerial level of the trilateral strategic dialogue between the American Secretary of State, Japanese Foreign Minister Aso, who is coming here, and the Australian Minister for Foreign Affairs.

This visit underscores the importance of the American alliance. We had the US Secretary of Defense, Donald Rumsfeld, here in November of last year. We are entirely unapologetic about our close relationship with the United States. It is a country which we engage with very heavily over Asia-Pacific matters. The United States is deeply important, for example, in the fight against terrorism in South-East Asia. We very much appreciate the cooperation we have with them just on that task alone.

As far as any alternative views are concerned, we know that there is a strong vein of anti-Americanism that runs through the opposition, and that was illustrated only too clearly by the candidate survey which found that only 40 per cent of Labor candidates thought the American alliance was of great importance to Australia. I wonder whether this has any implications for the current preselection debacle where my friend the member for Maribyrnong has been so poorly treated by the Leader of the Opposition.

I notice in a Queensland newspaper that a man called Ivan Molloy is planning to stand for Labor preselection for Fairfax at the next election. Talking of gun-toting, Mr Molloy is a gun-toting anti-American who, if not having been a supporter of terrorists, could be described as an apologist for terrorists. He is deeply anti-American. I wonder if the Leader of the Opposition—so happy to allow his own colleagues who sit on the front bench with him to be dumped—approves of Ivan Molloy being preselected for the Labor Party. Mark Latham described him as the ‘candidate from hell’. I would not think so. We on this side of the House had good fun with him during the last federal election campaign. The interesting thing about the Leader of the Opposition is a serious point: he is prepared to turn his back on and see dumped colleagues who are shadow ministers but he is quite happy for Ivan Molloy to run as a Labor Party candidate in Fairfax. What a weak man.

Mr Trevor Flugge

Mr Rudd (2.36 pm)—My question is to the Minister for Foreign Affairs and follows my earlier question to the Minister for Trade which he suggested I should address to the Minister for Foreign Affairs. I refer to a statement from Mr Flugge of 22 March 2005 which states: ‘In the end, we probably used up to $US1 million in cash with no problems whatsoever.’ I also refer to a statement by a member of Mr Flugge’s team of the same date: ‘The Australian government was terrific in giving us the licence to get things done.’ Can the minister confirm whether Mr Trevor Flugge or Mr Flugge’s team transported over $1 million in cash from Kuwait to Baghdad between May and July 2003? How much cash did Mr Flugge have discretionary use of during his Baghdad posting?

Mr Downer—The question not only attacks Mr Flugge, which the Labor Party enjoys so much, but assumes that because Mr Flugge and his team used cash in Iraq at that time—

An opposition member—How much?
Mr Downer—however much it may have been—there was somehow something inappropriate about that. Let me explain. Is there something inappropriate about using cash in a country straight after a war when there is no banking system? Indeed, he used cash. There was no other way of financing the rehabilitation of agriculture in Iraq because there was no banking system. I know the Labor Party is thick, but on this side of the House we believed in helping the Iraqi people, we believed in getting rid of Saddam Hussein, we believed in helping restore Iraqi agriculture, and we are not so thick that we did not know you had to pay for it; we knew that. If there is no banking system, how were we meant to pay for it? If Mr Flugge used $1 million, he would have used a substantial—

Mr Rudd—Mr Speaker, I rise on a point of order that goes to standing order 104. My question was: how much money did he have discretionary use of?

The Speaker—The member for Griffith will resume his seat. The minister is in order.

Mr Downer—I am not arguing with his numbers. The point I am making is that he used Australian funds. He had to use cash—not cheques, Visa cards or American Express cards—to make payments to contractors rehabilitating infrastructure. The disappointing thing for the Labor Party is that all of these payments were fully acquitted.

Commonwealth Games

Mr Broadbent (2.39 pm)—My question is addressed to the Attorney-General. Would you inform the House what the government is doing to ensure the Melbourne 2006 Commonwealth Games will be as safe and secure as they can possibly be?

Mr Ruddock—I thank the honourable member for McMillan for his question. I know that he, like me, is truly excited by the fact that Melbourne, one of the great sporting cities of the world—

Opposition members interjecting—

Mr Ruddock—I say that coming from Sydney! I have always recognised that Sydney is the city of participants and Melbourne is the city of enthusiastic spectators of great sports. That is why it has those marvellous facilities. Seriously, 5,000 athletes from around 71 countries are expected to converge on Melbourne for the Commonwealth Games. In total, more than one million people from Australia and around the world will be involved. Up to 100,000 spectators are expected to take part in the colour and excitement of the opening ceremony. I am sure that it will be a wonderful sporting vocation.

However, in the post-September 11 environment, it is important that the government take every step necessary to ensure that the games are not only successful but also as safe as possible. The security preparations for the games, I think, demonstrate at a practical level the way in which the Commonwealth and the government of Victoria have worked together to protect our community from terrorism. To ensure that these activities are properly supported, we will be providing $85 million worth of security for the games as part of a broader contribution of over $300 million.

During the games, the Australian government as a whole will support Victoria in a number of different ways: through our intelligence agency and the Australian Federal Police; using the specialist capabilities of the Australian Defence Force, including a forward deployment to Melbourne for quick activation should a terrorist threat emerge; and maintaining a high level of security for transport infrastructure, including air, maritime and ground.

The relationship between the Australian and Victorian governments on security mat-
ters is built on the sound history of cooperation that we have seen amongst Australian governments generally. I am sure the end result will be one of the best Commonwealth Games ever and a demonstration of the robust and effective security capability that we have been building in recent years.

Wheat Exports

Mr WINDSOR (2.43 pm)—My question is to the Deputy Prime Minister. Will the Deputy Prime Minister give a guarantee to Australia’s wheat growers that, before any changes are contemplated to wheat export arrangements, a properly constituted poll of all registered wheat growers will be conducted?

Mr VAILE—I thank the member for New England for his question. Obviously, the whole debate about the oil for food program and wheat exports across the world, particularly to Iraq, has raised an element of expectation and concern for Australian wheat growers, who are genuinely trying to do their job of growing wheat and selling it for the best price overseas. We have continued to support them in that. As the Prime Minister indicated yesterday in his response to the member for New England’s question, he is well aware of the government’s policy on the existence and operation of the single desk.

On the member for New England’s point about the operation of the single desk and the involvement of wheat growers, the wheat growers of Australia, whether they be in the eastern states or the western states, feel very attached to the mechanism that has served them well over many years. We do not envisage in the short term any changes in this policy. As we have done in the past, in communicating, seeking responses and consulting with grower bodies in the different sectors of agriculture, of course we would consult with the wheat-growing community of Australia if there were any proposed changes to the mechanisms that are in place.

Defence

Miss JACKIE KELLY (2.45 pm)—My question is addressed to the Minister for Defence. Could the minister update the House on the government’s commitment to securing and protecting Australia?

Dr NELSON—I thank the member for Lindsay for her question. There is no finer representative of the strong directions and mainstream values of this government than the member for Lindsay. She herself had a distinguished career in the Royal Australian Air Force.

The first responsibility of the government is the defence of Australia and the protection of Australia and its interests. Ten years ago when this government came to office and found that we had been left with a $10.3 billion deficit—accumulated and given to us in part in no small way by the now Leader of the Opposition—the first and only area of government expenditure that was not subjected to bringing spending below income was that of Defence. At the same time what the Howard government did was to shift $800 million from the back end of Defence, from the desks, to the front end of Defence, from the tail to the teeth. In the year 2000 the Prime Minister released the white paper on defence which set the 10-year vision and strategic direction for defence in Australia and added another $28½ billion to defence expenditure out to the year 2010. Since then we have now approved 141 major capability projects which include—

Mr Beazley—On a point of order, Mr Speaker: it is an abuse of question time. This is a ministerial statement, and question time is precluded from having ministerial—

The SPEAKER—The Leader of the Opposition will resume his seat. The minister
was asked a question. He is answering the question.

Dr Nelson—Those 141 major capability projects have included not only rectifying the significant problems given to us in the Collins class submarines by a previous Minister for Defence—which are now world class, I might add—but also investing in 22 attack armed reconnaissance helicopters. We have taken delivery in the United States in the last week of five of the first 59 heavy Abrams tanks, we have got 14 Armidale class patrol boats and the member for Leichhardt only last week told the people of Cairns that the $75 million upgrade there will proceed. The government recently announced, in addition to that, another $1½ billion to increase the size of and to give more strength and tanks to the Australian Army.

I might also add that in all of this the government has made it a priority to see that wherever possible Australian industry can invest in and contribute to hard earned Australian taxpayers’ investments in defence. In fact, I read in today’s Australian Financial Review Mr Geoffrey Barker saying of the government in defence over the last 10 years and going forward:

No peacetime government has attended to defence policy in all its dimensions more assiduously, or even more obsessively, than the Howard government.

He said it has presided ‘over major organisational reforms, significant developments in strategic and force structure policy and continuing growth in defence spending’. I think the Executive Director of the Australian Defence Association put it very well when he said:

The National Security Committee of Cabinet is probably the most successful since World War II. This government will not be cutting and running in defence, whether it is in Iraq or Afghanistan or indeed in the long-term strategic direction in the defence of Australia and the investment required to support it, which includes in no small way a strong economy.

Mr Trevor Fluge

Mr Rudd (2.49 pm)—My question is to the Minister for Foreign Affairs. Can the minister confirm whether or not the $1 million contract of Mr Trevor Fluge, paid for out of the Australian aid budget, was taxable?

Mr Downer—I am afraid I am not the minister responsible for taxation but I would expect Mr Fluge and the other—what would it be?—12 million or so Australian taxpayers to fulfil all of their obligations under the tax act. People are paid by the Australian government in accordance with the laws of the land.

Families

Mrs Markus (2.50 pm)—My question is addressed to the Minister for Families, Community Services and Indigenous Affairs. What benefits are available to families as a consequence of the policies of the government? Are these benefits under threat from any other source?

Mr Brough—I thank the honourable member for Greenway for her question. The Howard government, in the last 10 years, has had as its highest priority Australian families—maintaining Australian families, supporting Australian families, encouraging and rewarding Australian families. In fact, over this time we have a proud record of having increased funding to Australian families through the family assistance payment from $16 billion to $27 billion. We have continued to provide taxation relief so that single-income families with a child can today earn some $45,000 and pay no net tax. That is a very positive thing for families. We have also increased the number of child-care places—in fact doubling them—and, of course, we
have the child-care rebate of 30 per cent. And in the area of superannuation we have the co-contribution helping families and we are actually letting women contribute to their own superannuation whilst being at home.

Most important are the fundamentals that we have got right. We are taking the pressure off families by keeping interest rates and inflation low, allowing people to own their own home and creating over 1.7 million jobs, all of which are helping Australian families. The member for Greenway, who represents so many middle-income Australian families in her seat out in the western parts of Sydney, knows only too well how easy it is to put under threat their lifestyle and security. To that end, as we currently stand, the member for Brand, the Leader of the Opposition, does not support the 30 per cent health rebate, which is supporting these families, and he does not support the 30 per cent rebate for child care. At the last election the opposition’s policy was to go forward not with 80,000 out of school hours care places, as the Howard government’s policy was, but with less than 10 per cent of that total. Their policy was cobbled together at the last moment to try to respond to a government that cares for families.

Of course, the member for Lilley said it all when he said that the family tax supplement of $600 per child, which the Howard government provides directly into the pockets of Australian families, was ‘not real money’. Has he retracted that comment? No. Has he been condemned by the member for Brand? No. Everybody on this side of the House knows that it is most important that we look after the family members closest to us and that we look after the Australian family.

My advice to the member for Brand is look after your Labor family. Do not deny the rights of the member for Maribyrnong and the member for Hotham, the members closest to you, because when you, as the Leader of the Opposition, run away from those who are supposed to be closest to you—the family members of the Labor Party—you also run away from the Australian public.

Oil for Food Program

Mr BEAZLEY (2.54 pm)—My question is to the Prime Minister. I refer to the Prime Minister’s comments on 28 February that Mr Cole has:

... made it very clear that he has all the power ... to make findings of fact about the behaviour of anybody, including the Commonwealth ...

I also refer the Prime Minister to the commissioner’s statement on 3 February when he said:

The present terms of reference ... do not permit me to make findings of illegality against the Commonwealth or any of its officers.

Why has the Prime Minister, in his public comments, completely misrepresented Commissioner Cole? Will the Prime Minister now expand the commissioner’s terms of reference and give him the power to make findings about the behaviour of anybody, including government ministers?

Mr HOWARD—In reply to the Leader of the Opposition, I have not in any way misrepresented what the commissioner has said. I have his statement before me. The commissioner has said that, under the current terms of reference, he has the power to make findings of fact in relation to the behaviour of a whole list of people and organisations, including the Commonwealth. He uses the expression ‘the Commonwealth’ generically. That means he can make findings of fact in relation to officers of the Department of Foreign Affairs and Trade, findings of fact in relation to ministers and findings of fact in relation to employees or officers of statutory authorities.
I invite the Leader of the Opposition to contemplate for a moment the difference between a finding of fact and a finding that there has been a breach of law by somebody. There is a very clear distinction. Any rudimentary understanding of how our legal system operates would tell you that there is a difference between making a finding of fact and going on to then say that the finding of fact represents a breach of the law. The commissioner could find, for example, that X had done something in a careless fashion, but that does not represent a breach of the law. It does not represent a criminal offence.

The commissioner goes on to say—and I invite the Leader of the Opposition to listen to this:

Accordingly, if, during the course of my inquiry, it appears to me that there might have been a breach of any Commonwealth, State or Territory law by the Commonwealth—again, generically used—or any officer of the Commonwealth related to the subject matter of the terms of reference, I will approach the Attorney-General seeking a widening of the terms of reference ...

In other words, the commissioner is saying that he has ample power to make findings of fact. If he needs a widening of the terms of reference to make a finding that an offence has taken place, as distinct from an extension of some finding of fact, he will approach the Commonwealth. I have already indicated—and I hope I do not presume, on the authority of the Attorney-General, to repeat this indication—that, if the commissioner were to seek an extension of the terms of reference, he would be granted that extension.

The Leader of the Opposition is without substance in this allegation. This government has been transparent. This government has established an inquiry with the powers of a royal commission. We are now drawing to the end and how many questions must it be—60, 70 or 80?

Mr McGauran—It is 110.

Mr Howard—110! It is a world record in futility. They have had 110 opportunities to actually finger some misbehaviour by an officer of the Commonwealth, to establish some link between the allegations made against AWB Ltd—and they are at the moment only allegations. Whatever people may say about the conduct of that company, the members and the officers of that company are entitled to due process. That due process requires people to at least wait until the commissioner has made a finding and to at least wait until all the directors of the company have had an opportunity to express their points of view.

Let me say again lest there be any doubt in the minds of anybody in this parliament: no knowledge in relation to the alleged bribery by AWB Ltd was in the possession of members of my government—in my or any of my colleagues possession—at the time those offences occurred.

Mr Tanner—You knew of the allegations and you chose not to look.

Mr Howard—If in fact they did occur. On the evidence I have seen—

Mr Tanner interjecting—

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

Mr Howard—I do not believe that any officer of the Department of Foreign Affairs and Trade has been guilty of misconduct or guilty of negligence. But these are matters properly left to the commissioner. No government in the world has been as transparent as this government has been. Not only do we have an inquiry with the powers of a royal commission but day by day, not every second day but every day that this parliament has sat, all of my ministers, from me down,
have been here in the parliament, answering questions on this subject. The Leader of the Opposition carries on about accountability. The ultimate test of an accountable government is its willingness and its capacity, where allegations are made, to establish an independent inquiry to get to the truth of those allegations, coupled with a willingness to make itself accountable every day, not every second day, before the parliament of this nation. On that test alone this has been a very accountable government. I simply say to the Leader of the Opposition: you have had all the time in the world to make your case, and you have failed miserably.

Welfare Fraud

Mr JULL (3.01 pm)—My question is directed to the Minister for Human Services. What action is the government taking to crack down on welfare fraud?

Mr HOCKEY—I thank the member for Fadden for his question. I recognise his concern and the concern of many others to protect taxpayers’ interests but at the same time ensure that those people entitled to welfare receive it. Fraud in the welfare system is like a cancer: it has a profound impact on recipients and it has a profound impact on the credibility of the system. I can report on a previously unreported operation conducted by Victoria Police and Centrelink in the last few days—that is, Operation Oxford. This involved a roadblock in which 500 vehicles were stopped for inspections and drivers licence checking. Of the 500 vehicles stopped, 220 commercial drivers, including taxi drivers and courier drivers, were questioned by Centrelink. This operation identified 13 welfare recipients who were working without declaring their earnings. These people have now had payments cancelled, saving the taxpayer $100,000 a year. Another 20 people are having their cases and records closely examined.

Last year Centrelink undertook 133 of these special covert operations, which resulted in over 10,000 reviews of welfare payments to individuals. This generated savings to the taxpayer of more than $30 million in one year alone. We are determined to crack down on welfare fraud and we issue a general warning: if people are engaged in fraudulent activity in relation to welfare, we will get them.

Oil for Food Program

Mr BEAZLEY (3.03 pm)—My question is to the Minister for Foreign Affairs, and it relates to a matter that is not being considered by the Cole royal commission. I refer to reports in the United States congress that money illegally obtained by Saddam Hussein from the oil for food program was used to fund the families of Palestinian suicide bombers. Minister, given that AWB was the single largest user of the oil for food program, will you launch an investigation into how the $300 million in kickbacks from AWB to Iraq was used? Furthermore, given the impact on the security of the state of Israel, not to mention Australians in Israel, has the foreign minister raised this matter with the state of Israel or the relevant intelligence agencies in order to determine whether any of the $300 million went to pay Palestinian suicide bombers?

Mr DOWNER—I appreciate the question, and the reason I appreciate the question is that I have wanted to make a couple of points about this. The first is that there is no evidence that money paid by AWB Ltd to Alia, which we now believe went to the Iraqis, was subsequently paid to Palestinian suicide bombers. The second point I want to make is that it is true—

Ms Macklin—How do you know that?

Mr DOWNER—How do I know there is no evidence?
Ms Macklin—No, how do you know that?

Mr Downer—Oh, you genius, you! Mr Speaker, they are so brainy! The second serious point I make is this: I have said at this dispatch box over the years that Saddam Hussein did provide financial support to Palestinian suicide bombers. But from March 2003 he has paid no money to Palestinian suicide bombers. He cannot, because we got rid of him. Whereas if the Labor Party and the Leader of the Opposition had maintained their policy he would still be financing Palestinian suicide bombers. Go and tell that to the Israelis!

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

QUESTIONS TO THE SPEAKER

Question Time

The Speaker (3.06 pm)—Yesterday the member for Fraser sought clarification on a ruling made in relation to a question asked by the member for Griffith during question time. I consider the second part of the question of the member for Griffith to be frivolous. I also consider that the member was seeking the provision of additional information prior to the end of question time, which is not in accordance with usual House practice.

Question Time

Mr Rudd (3.07 pm)—Mr Speaker, with respect to the question to you raised yesterday by the member for Fraser, when a member asks a minister whether he is prepared to provide his answer within a given time frame, how under the standing orders could you deem that to be a frivolous matter?

The Speaker—I thank the member for Griffith for his question. As I have indicated, I ruled it out of order. There is no further ruling to be made. I refer him to the Practice if he wants to read about references to ‘frivous’.

Hansard

Mr Kerr (3.07 pm)—Mr Speaker, in recent months, or perhaps years, Hansard has requested the assistance of members by asking them to provide, if they are available, advance copies of draft speeches in electronic form. As a light-hearted and humorous aside, they have been identifying those members whose birthdays are coming up and wishing them well. In an obviously ill-timed and unfortunate circumstance, the officer responsible sent around a little note with former member Mark Latham’s name crossed out, which obviously some people thought was in bad taste, and that was reflected back to the officer.

Mr Speaker, might I ask that you ensure that what I thought was a perfectly sensible previous practice of seeking our assistance in providing advance copies where it is possible and also the good natured provision of advice about birthdays, reflecting goodwill on behalf of the officer, is reinstated. Even if members have taken offence at what I thought was a fairly tasteless addition to the birthday greetings in the case of the mention of Mr Latham, nonetheless it was obviously meant in good fun and in good faith and he has suffered more than sufficient chastisement. He obviously, by sending a note around today, feels deeply about the grief that he has caused, but I do not believe any members on this side—and I doubt any members on the other side—would wish there to be anything in the nature of long-standing action taken that would prevent the re-establishment of what was a perfectly sensible and happy arrangement.

The Speaker—I thank the member for Denison. I will make further inquiries on his behalf to see what can be done.
Mr Albanese—Further to the inquiry by the member for Denison, speaking on my own behalf and on behalf of the members for Fremantle and Gorton, I back that up.

Question Time

Mr Ripoll (3.09 pm)—Mr Speaker, in question time today and yesterday the Minister for Health and Ageing referred to a number of issues regarding the Cambodian community, obviously to seek some political advantage or generate some cheap laughs in the House. Could you inquire and report back to the House on the cost to the taxpayer of translation of those documents into Khmer for our benefit?

The Speaker—I thank the member for Oxley. I believe that that question—

Mr McGauran interjecting—

Mr Ripoll interjecting—

The Speaker—Order! Does the member for Oxley wish me to respond?

Mr Ripoll—I was responding to the minister.

The Speaker—if the member for Oxley does not wish me to respond, I will not.

Hansard

Mr Lindsay (3.10 pm)—Mr Speaker, I would like you to note that I too would like my name associated with the comments by the member for Denison.

The Speaker—I thank the member for Herbert.

Business

Days and Hours of Meeting

Mr Abbott (Warringah—Leader of the House) (3.11 pm)—I move:

That:

(a) the arrangements for Monday 27 March and Tuesday 28 March 2006 agreed to earlier be revoked, and that the usual times of meeting and order of business as provided for by the standing and sessional orders stand, unless otherwise notified by the Speaker;

(b) for any sitting of the House to which Senators are invited as guests, the provisions of standing order 257(c) apply to the area of Members’ seats as well as the galleries; and

(c) a message be sent advising the Senate of these matters.

Question agreed to.

Auditor-General’s Reports

Report Nos 32 and 33 of 2005-06

The Speaker—I present the Auditor-General’s Audit report Nos 32 and 33 of 2005-06 entitled No. 32—Management of the tender process for the detention services contract—Department of Immigration and Multicultural Affairs, and No. 33—Administration of petroleum and tobacco excise collections: follow-up audit—Australian Taxation Office.

Ordered that the reports be made parliamentary papers.

Documents

Mr Abbott (Warringah—Leader of the House) (3.12 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. I move:

That the House take note of the following documents:

Migration Act 1958—Section 91Y—Protection visa processing taking more than 90 days—Report for the period 1 July to 31 October 2005.
Superannuation (Government Co-contribution for Low Income Earners) Act—Quarterly report on the operation of the Act—1 October to 31 December 2005

Debate (on motion by Ms Gillard) adjourned.

SPECIAL ADJOURNMENT
Mr ABBOTT (Warringah—Leader of the House) (3.13 pm)—I move:
That the House, at its rising, adjourn until Monday, 27 March 2006, at 12.30 pm, unless the Speaker or, in the event of the Speaker being unavailable, the Deputy Speaker fixes an alternative day or hour of meeting.

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

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

The lack of accountability, declining standards of integrity, and the squandered opportunities of the Government’s ten years in office.

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 BEAZLEY (Brand—Leader of the Opposition) (3.14 pm)—First, I want to take out of question time lessons that we learnt on the question of lack of accountability and declining standards of integrity. The Cole royal commission will report either slightly before we return to this place or slightly after in what will be only a few days of sittings, some of which are likely to be taken up with hosting foreign guests. So we are now effectively at the conclusion of the period when this House, this chamber, can make a contribution to this government’s accountability on this, the worst scandal that there has been in living memory in federal history.

We had a further question time today. We established during the course of it that, firstly, the Deputy Prime Minister—contrary to what he had asserted previously in this place—had knowledge of the detail of the allegations about our involvement with subverting the oil for food program and financing Saddam Hussein. He acknowledged at last that he was briefed on that, in the same way as the foreign minister effectively owned up to it in this place.

The second thing we got in the process of the opposition seeking to render this government accountable was the joyous hubris of the foreign minister on the subject of people being able to wander around Iraq with very large sums of Australian money to be spent at their discretion, albeit in difficult circumstances. The problem is that we also know that, in the period of time that we are talking about, the corruption of that oil for food program persisted for some 18 months. Where the money went in that case we do not know. We know where it went before the war, but we do not know where it went after the war. There were substantial sums of money to be dealt with there. We know that very senior Baath Party officials were reappointed to the agricultural ministry on the basis of a relationship that they had had with Australia in the past. So we know those things, and we now know that the government was quite joyous about the fact that substantial sums of money were made available on a discretionary basis at that point in
time. That is another thing we managed to establish here today during question time.

We have finally got a government—after 110 questions in this place, as the Prime Minister pointed out—with a completely different story now out there in the public domain from what there was at the beginning of the House of Representatives process. We had the Prime Minister stand up full of hubris, as he is on his 10th anniversary, proud of the fact that he renders himself accountable in this place. That is deceitful. He excluded the Senate estimates process, which is—or at least in the past has been—by far and a long way the most effective means of scrutiny of a government on the sorts of matters we have been dealing with here on the floor of the House. He managed to exclude them completely from the process, and he has spent most of those 110 questions stonewalling.

The problem for him has been that evidence that has been introduced principally by the member for Griffith and me at different points in time, combined with the evidence that has been coming forth from the Cole commission, has established a totally different picture of this government’s involvement in this scandal now than what we had towards the end of last year. And what is that picture? The picture is that this government has been culpably negligent in relation to its administration of our involvement in this critical program. This government has turned a blind eye to the subversion of the oil for food program. Whatever blah the foreign minister might like to go on with as he excuses the fact that this money may well have been used to fund suicide bombers, the money that was given to Saddam Hussein—we being the biggest contributors under the program—is still being utilised. It is still being utilised because those resources that came from the oil for food program were stolen at war’s conclusion by Saddam Hussein—that which was left after all the other things that he had spent it on—and subsequently funded the Baath component of the insurgency which is operating now in Iraq, placing Australian soldiers operating in Iraq under threat. More directly, because they operate more prominently in the Sunni areas than we do, it threatens the lives of American soldiers—our allies, about whom the foreign minister waxed lyrical.

The Prime Minister, during the course of these 110 questions, has been wont to defend himself from time to time by the implication that it was necessary for AWB to do these sorts of things because we were in bitter conflict and trade rivalry around the globe with American wheat producers and Canadian wheat producers, as though that justified this particular set of events—and seeking to justify it. The simple fact of the matter is that those two outfits did not participate in this crime and indeed one of them explicitly blew the whistle on this crime.

The government’s neglect of those facts has deeply, deeply dishonoured this country. And this scandal—which we on this side of this chamber of the parliament have used to effectively tease out the detail of the accountability and participation of ministers—dishonours this nation and dishonours the reputation of this government. They spent last night in an absolute orgy of self-congratulation. They began every speech with obeisance to the notion that there was more work to be done and ‘We mustn’t display hubris’—and then they went into it by the bushel. Hubris squared was the performance of our political opponents yesterday.

They had their signs up there saying ‘Strong direction, mainstream values’; I say, after 10 years: wrong direction and, if it is anybody’s values, American values. What in fact this nation has needed over the last 10 years and what it needs now is nation building and Australian values—the Australian values
which have been dealt with so cheaply by them in this scandal and in the way in which they have operated in their 10 years of government.

We need less backslapping from them and more attention to our skills crisis. We need from them less patting on the back, less self-congratulation and more attention to our crumbling infrastructure. We need some statement from them on our skyrocketing foreign debt and on the woefully limp export performance. If we are travelling so well, why aren’t average Australians sharing in it? If we are going so well, why have we turned away 300,000 young Australians from TAFE and brought in 270,000 foreigners?

What we have seen in these 10 long years is the threat of terrorism growing. We have seen, as I said, in these 10 long years 300,000 young Australians missing out on TAFE. We have seen in these 10 long years our dependence on foreign oil grow and grow. We have seen in these 10 long years our infrastructure crumble beneath us. We have seen in these 10 long years our children’s health get worse, not better. In 10 long years, with the globe getting hotter, we have seen a government doing nothing about it and in denial. In 10 long years we have seen the rights of working families being ripped away. In 10 long years our best and bravest have been sent to war only to confront an enemy funded by us. And 10 long years of nation building was what we needed, but nation building was not what we got.

I want to go to a couple of explicit features of this situation as I talk about the key squandered opportunities over the last 10 years. The first relates to skills and innovation amongst our people and in our industries—investing in our people. The fundamental philosophy of funding training and higher education in this country has changed from one of national investment to one of private opportunity. When every other country with whom we are competitive realised long ago that these are national investment issues, the consequence of this in the public tertiary education sector has seen funds spent at minus eight per cent over the 10 years when the next worst in the industrialised nations is plus 15 per cent. It has seen 300,000 kids turned away from TAFE and a substantial reduction in Commonwealth spending in training in a way that has now produced what all the employer organisations report as a massive shortfall—this is not a product of prosperity; it is a product of neglect—in the traditional trades.

We have seen the effect of this on innovation in our businesses, in the sort of product that attracts an overseas market. If we are to succeed as a nation, if our nation is to be built, it has to be built around an export culture. It has to be built around us making things and providing services that the rest of the world needs; instead, our industrial exports have stalled. The export of our services has stalled. The Deputy Prime Minister was up here, chuffed with himself about the global value of exports. What he did not mention was the value of imports and the fact that we have now had the longest period of trade deficit ever. We are the only major exporter of minerals in trade deficit. No-one else with our advantages—not the Brazilians, the Argentineans, the Russians or the Canadians—is in our position of a shortfall in relation to exports.

The problem with all of this is that chickens in the end come home to roost. If you do not invest in your skills, if you do not invest in your innovation, if you do not make an export culture a primary feature of your nation building and allow it to influence things like your attitude to infrastructure policy, education policy, the health of your community—assuring them that they can live healthy lives and work hard at the same
time—if you do not reward a workforce for putting in that little bit extra, if you do not reward the long hours that they are prepared to work and if you strip away democracy from them in the workplace, what you have at the end of the day is a nation that will not succeed. If there is anything else going wrong with you, then you place your country in a very threatening situation indeed.

What else is going wrong? There is one thing, and that is the missing debt truck. I remember that debt truck very well. It had $180 billion attached to it when this government came to office, and it had sat there at about 40 per cent of GDP for the last decade before the Labor government fell at that point in time. That has got to $450 billion, and it looks like it is going to go to $500 billion by mid to late this year. It is heading rapidly to $500 billion. Almost all of it went into the housing boom, a little bit went to funding elements of the resources performance that we have put in place and hardly anything went into the manufacturing industry.

Unless we export our heads off over the next decade, the chickens that fly out of that huge burgeoning foreign debt will come home to roost big time on this economy, and that is when all the other injustices that we have been talking about will manifest themselves in unhappy lives for Australian people. The 10-year hubris of this government will never allow them to admit to any problem—(Time expired)

Mr ABBOTT (Warringah—Minister for Health and Ageing) (3.29 pm)—The Leader of the Opposition’s MPI is about the alleged squandered opportunities of the government’s 10 years in office. I intend to talk about the squandered opportunities of the Labor Party’s 10 years in opposition, and let me begin by saying that the Leader of the Opposition did at times in his ministerial career have a reputation as a decent human being and as a competent politician. But he is rapidly losing that and is rapidly squandering any public standing that he has. While he rails endlessly about alleged problems over which he has no responsibility, he singularly fails to fix the problems for which he does have responsibility. This is a man who talks endlessly about probity in government but is singularly incapable of establishing probity in opposition.

We know that very much today because, while he was speaking on this MPI, there were three significant absences. There was the absence of the shadow minister for overseas aid and Pacific island affairs, who has just lost his preselection and shows his contempt for the leader who did not protect him by absenting himself. Then there is the shadow minister for agriculture and fisheries, and the member for Hotham, both of whose preselections are under attack from the faceless branch stackers of the Victorian Labor Party thanks to the spineless, supine behaviour of the Leader of the Opposition. They are shoring up their preselections as best they can rather than supporting the Leader of the Opposition in this MPI.

Let me just make this point: every single question in parliament this year has been about the alleged wrongs of the Australian Wheat Board, AWB Ltd. This is a significant issue—there is no doubt about that—but out there in the cities, towns and country areas of Australia, is this the only thing on people’s minds? No, it is not. It is the only thing on the Leader of the Opposition’s mind, because a scandal a day keeps his own problems away. The longer that he can keep fulminating about AWB, the more he can avoid dealing with the problems that he really should be tackling.

Of course people are interested in corporate and institutional honesty. They want
their officials to behave properly, but they know that all of this matter is now before the Cole inquiry and they trust Justice Cole to come up with the answers to this issue much more than they trust a self-interested and fulminating Leader of the Opposition. I simply put it, through you, Mr Deputy Speaker, to the House: does anyone really think that a government which thought so ill of the regime of Saddam Hussein that it committed the troops of the Commonwealth of Australia to invade that country would have tolerated for a second the bribing of that regime, had it known about it?

This MPI alleges squandered opportunities of the government’s 10 years in office. We have made our mistakes, I am sure. We have not got everything right—of course. We are only human. But net government debt in 1996 was almost $100 billion. It is now negative $1.3 billion. Average mortgage rates under the former government were 12.75 per cent; under this government, 7.15 per cent. There were 8.3 million Australians in work in March 1996; there were 10 million Australians in work in December last year. That is 1.7 million new jobs. The unemployment rate in March 1996 was 8.2 per cent. It is 5.1 per cent now. Average inflation: 5.2 per cent under the former Labor government, just 2.4 per cent under this government.

In 1995 the Australian standard of living ranked 13th in the OECD; last year we ranked eighth in the OECD. Real wages growth under the term of members opposite was 0.3 per cent. Under this government it has been 15.5 per cent. Total household wealth was $2,048 billion in March 1996 and $4,553 billion in December last year. It has more than doubled. I could go on and on about the comparative performance of this government and the former Labor government. I think it is pretty obvious that whatever mistakes we have made, whatever sins of omission there may have been, this has been a government which has taken its responsibilities seriously and which has delivered a better life to the overwhelming majority of the people of Australia.

Let us talk about squandered opportunities. I can make all sorts of criticisms about the Australian Labor Party and my criticisms will be discounted because I would say that, wouldn’t I? But someone who cannot be discounted, someone whose criticisms have to be taken seriously, is the member for Batman, Mr Martin Ferguson, who said of his own party in yesterday’s Australian:

The result is that after a decade in Opposition we have plenty of storytellers but not much of a story to tell. This 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. They will bring nothing to the caucus except a further choke on the free development of an innovative policy agenda and a further weakening of the elected caucus in favour of the centralisation of power to a few trade union and party officials in Melbourne, Sydney and Brisbane.

So where are the declining standards of integrity? Where is the lack of accountability? Where are the squandered opportunities of the last 10 years? According to an opposition frontbencher, the member for Batman, they lie on that side of the parliament. We have seen a lot of huffing and puffing from the Leader of the Opposition against the government. If he were serious, if he were a man of strength, what he should be doing is lifting a finger to protect his own colleagues whose preselections are currently under threat.

Mr Price interjecting—

Mr ABBOTT—I quote the member for Hotham: ‘I have been the victim of people breaking their word’—

The DEPUTY SPEAKER (Mr Barresi)—Order! Member for Chifley, the minister is entitled to be heard in silence.
Mr ABBOTT—people not approaching this with integrity.

Mr Price—Mr Deputy Speaker, I rise on a point of order. The Leader of the House is talking about preselections—

The DEPUTY SPEAKER—There is no point of order.

Mr ABBOTT—I am fighting this preselection as much as anything to uphold those values of integrity, honesty, upholding your word, because they are values that are important to society. We have the Leader of the Opposition here talking about declining standards of integrity and alleging that this is somehow the work of the Howard government, when he has his former friend—a frontbencher, the member for Hotham, a former party leader—saying that the lack of honesty and integrity is inside the Australian Labor Party itself. We have another Labor Party parliamentary secretary, the member for Lingiari, saying today—apropos of the declining standards of integrity that are the subject of this MPI—that we have standover merchants, thugs and sleazebags—

Ms Gillard—Mr Deputy Speaker, I rise on a point of order. This matter of public importance is about the standards and squandered opportunities of the Howard government. If the Leader of the House has lost the ability to put the case for the Howard government—

The DEPUTY SPEAKER—There is no point of order.

Mr ABBOTT—I know the member for Lalor is bitterly disappointed at what is happening to the member for Hotham because she thought the member for Hotham would be her principal lieutenant in the leadership bid which will be occurring soon. That is what this Australian Story that she has been focusing on for the last couple of weeks is all about. Normally, we get one doorstep and one press release a day from the member for Lalor—

Mr Rudd—Mr Deputy Speaker, I rise on a point of order. As the occupier of the chair, you are responsible for interpreting whether or not a speaker at this dispatch box is addressing their remarks in a manner relevant to the title of the matter of public importance, which reads—

The DEPUTY SPEAKER—There is no point of order. Matters of public importance discussions are free ranging. I also remind members of the opposition that the Leader of the Opposition was heard in silence, uninterrupted, and I expect the same courtesy to be given to all speakers during this MPI.

Mr Price—Mr Deputy Speaker, I rise on a point of order. If you are not going to interpret the standing orders, I draw your attention to the state of the House.

The bells being rung—

Mr Rudd—Mr Deputy Speaker, your rulings from the chair have been absolutely disgraceful and you know it.

The DEPUTY SPEAKER—Order! Mr Rudd—Minister, you stand here and you make a racist remark from that dispatch box and you think you can lecture others on the subject. Go bag your head. You made a racist remark from the dispatch box.

The DEPUTY SPEAKER—Order! I remind members that disorderly behaviour will not be tolerated during the ringing of the bells.

(Quorum formed)

Mr ABBOTT—in this MPI, the opposition allege declining standards of integrity in the government, but they practise declining standards of integrity in their own party. The member for Lingiari, in talking about what was going on inside his own party, referred to standover merchants, thugs and other sleazebags undermining the good name of
the Australian Labor Party, hard won over 100 years. He is not just talking about 10 years being squandered; he is talking about 100 years because of the thugs, sleazebags and standover merchants now attacking the preselections of decent frontbenchers in the Australian Labor Party. It was interesting to read in that same article which quoted the member for Lingiari: ‘Mr Beazley justified comments he made a year ago that Mr Crean should not be nudged from his seat of Hotham, saying he had made the statement while there was no preselection under way.’ What a great sort of person he is. He gives you support when you do not need it and, when you do need it, it is just not there. And now this pathetic weathervane—this sanctimonious windbag—is putting himself up as the alternative Prime Minister of Australia. (Time expired).

Mr RUD (Griffith) (3.44 pm)—In this place the government has said that its defence on the $300 million wheat for weapons scandal is that the Department of Foreign Affairs and Trade and the minister had no substantive role to play in considering whether the proposed AWB exportations to Iraq complied with United Nations sanctions or not. The government’s continuing defence since day one of this $300 million scandal has been that the government was a postbox to the UN Office of the Iraq Program and that all—I repeat: all—substantive decision making lay with the United Nations. (Quorum formed) The government’s plea, therefore, is that any legal and moral responsibility for a breach of UN sanctions lies exclusively with the United Nations and the Australian Wheat Board.

My central purpose today is to establish that this defence on the part of the government is unsustainable in law—both international law and, crucially, Australian law. Under regulation 13CA of the Customs (Prohibited Exports) Regulations 1958, the Minister for Foreign Affairs had an obligation to consider whether or not to grant permission for the exportation of goods to Iraq. This regulation required the minister to actually consider—that is, actively pay regard to—whether the exportation in question would or would not cause Australia to be in breach of its international obligations. The relevant international obligations were clause 4 of UN Security Council resolution 661, which required Australia to prevent its nationals, and any person such as AWB, from making available to the government of Iraq any funds or from permitting any funds to persons or bodies within Iraq except payments for foodstuffs in humanitarian circumstances.

Regulation 13CA(2) was incorporated by this parliament into Australian law to provide a means by which Australia, through the minister, could carry out the decision of the Security Council embodied in UNSCR 661 and, in particular, the requirement in that decision that Australia prevent AWB and its officers or agents from remitting funds to the Iraqi government. The obligation imposed by the parliament of the Commonwealth on the minister or his delegates is to consider whether he is:

... satisfied that permitting the exportation will not infringe the international obligations of Australia.

Regulation 13CA(2) positively requires that the minister is ‘satisfied’ of the requisite state of affairs. As a matter of administrative law the minister cannot be satisfied by an unexamined assumption, let alone by a process which deliberately refrains from the minister addressing the question. The satisfaction of the minister as a decision maker needs to be based on ‘findings or inferences of fact which are supported by some probative material or logical grounds’. Applying this matter of administrative legal theory and principle to the Customs Regulations, the minister therefore must be satisfied that the exporta-
tion will not infringe the international obligations of Australia.

It is at this point that the government contends that the Minister for Foreign Affairs was satisfied that these exportations of wheat did not infringe UN sanctions on the basis of one thing and one thing alone: that the United Nations authorised the payment of the related wheat contracts. In other words, it was a decision made by foreigners in New York working for the United Nations, not a decision made by Australians. Furthermore, the nature of the issue to be determined—that is, the infringement of an obligation of an international character owed by Australia—is a decision left to one of the Queen’s ministers of state for the Commonwealth, as the minister is under section 64 the Constitution. It is not contemplated that, given the subject matter of a decision to be made for the purposes of the municipal law of Australia concerning the prohibition of exports, foreigners employed by or acting on behalf of the United Nations make such a decision.

This is particularly clear given that the decision of the Security Council could be given effect only by each member state, through its own national measures, taking steps to prevent the illicit remittance of funds for the benefit of the Iraqi government. The only way the decision that states prevent nationals within their territories from remitting illicit funds to Iraq may be carried out is for the governmental authorities of each member state to enact and execute means of monitoring and prevention. The terms of regulation 13CA(2) of the Australian Customs Regulations fit that description perfectly. This is a legal responsibility that cannot be subcontracted to the United Nations or any other entity.

Furthermore, if, as appears to be the case, UN practice also evolved during the five years that this $300 million scandal ran so as to become a system of approval by default—that is, where approval would be granted unless there was a contrary voice within the UN Sanctions Committee within a stipulated period—then as a matter of substance and as a matter of Australian administrative law it is difficult to see how the Australian minister could rely upon such a default process as demonstrating that the minister should be satisfied that permitting the AWB export would not involve permitting the illicit remittance of funds to Iraq. If DFAT were aware of the default process, having encouraged its adoption as a streamlining of UN approvals, it would be even clearer that its minister could not treat a UN default approval as enabling him to be satisfied of the requisite state of affairs.

Applying these legal requirements imposed on the Minister for Foreign Affairs to the circumstances of particular AWB exports would involve consideration of the material available to departmental advisers, ministers and departmental officials at the relevant times. If that material—say, protests, concerns or warnings voiced by other countries, rival traders or other individuals—fairly raised the possibility of kickbacks or other forms of illicit remittances of funds to the Iraqi government then the minister was legally obliged to consider that material in making the minister’s determination to issue an export permit on wheat contracts under regulation 13CA of the Customs Regulations.

Therefore the minister or his delegate under law cannot subcontract his decision-making responsibility to the United Nations. That is why the government’s contention that only the UN and not the Australian government has decision-making power in the approval of wheat contracts has no foundation whatsoever in law. That is the law and the legal considerations in this matter are paramount. But, beyond the law, let us look at the
morality of the government’s position as well. The government has said once again that it has no decision-making power in this matter but that it has, in fact, been subdelegated to the United Nations. This comes from the government whose Prime Minister has said in other contexts dealing with the United Nations:

... all of these issues in the end are going to be resolved by the Australian parliaments elected by the Australian people and not by committees of foreigners. ... in the end, we make these decisions.

Furthermore, there is the Prime Minister’s statement:

But in the end of course Australia decides what happens in this country through the laws of the parliaments of Australia. ... in the end we are not told what to do by anybody. We make our own moral judgments.

The Prime Minister’s most outrageous statement in this context was when he said in the context of the 2001 election campaign, ‘We decide who comes into this country—nobody else.’

The entire contention advanced by the government in their multiple engagements with the United Nations over that period of time, including in the context of the Iraq war, was that this parliament and the laws of this country were sovereign and could not be subdelegated to the United Nations. In this matter, where they find themselves in enormous political difficulty, the argument is this: that this parliament, this minister and these laws do not apply; what does apply only is a decision by a committee of the UN officials. This is a gross and fundamental contradiction of every argument advanced by this Prime Minister in the past on the United Nations as well as being in breach of law. (Time expired)

Mr CAUSLEY (Page) (3.54 pm)—I am interested that the member for Griffith should quote a legal opinion because I thought he would have understood quite clearly that our system of law in Australia is adversarial. I am pretty sure that you could go out and buy another opinion very quickly. There will be a great debate about the legal points that might be involved but I am sure that he cannot just stand here and quote and say: ‘This is absolute. I have a legal opinion and this is exactly how it stands.’

I am interested that the opposition are a little bit touchy about this. They have put forward a matter of public importance which talks about accountability, the declining standards of integrity and squandered opportunities. I would have thought it was quite legitimate therefore that this parliament could have a very open debate about those particular issues. Those who listened to the Leader of the Opposition here this afternoon would know that it is patently obvious why Bill Shorten has decided that he will never win the next election. It is patently obvious because he never articulated what I thought were reasonable arguments in any of these areas. As the Prime Minister has said before, for the last three or four weeks we have had question after question on the Australian Wheat Board, and not one iota of evidence has been raised by the Australian Labor Party that the government, its ministers or DFAT, for that matter, knew anything about this.

In fact, it is an exercise of trial by media using the ALP to do it: ‘We’re not prepared to wait for the Cole commission to come down with its findings. We want to come into this place and throw as much mud as we possibly can and try and impugn decent people.’ I think we should get to the real facts about this. It is fairly obvious, as I said earlier, that Bill Shorten has said, ‘This particular group over here will never win the next election, so we’ve got to do something about it.’ What I am interested in is the fact that the Leader of the Opposition will not defend the people on the front bench even though they
must have voted for him at the particular time to become leader. As the member for Corio so rightly says, 'If we’re going to sit back and let these people be crucified on the altar of the ALP left-wing factions or right-wing factions or whatever they might be, then obviously you cannot guarantee—

(Quorum formed) The member for Corio was quite correct when he said that the Leader of the Opposition should not be so complacent about this because, if Mr Shorten is so good as to stack the numbers in Victorian branches, I can assure you he will stack the numbers here too. The Leader of the Opposition will not be the Prime Minister, I can guarantee you that. Let us consider that.

I also want to say a little bit about the member for Griffith because he has been deeply involved in this. The member for Griffith has been the advocate in this parliament for the American Wheat Associates. There is no doubt about that. I suspect he has been getting leaked information from the American Wheat Associates so as to use this forum to try to undermine our markets. The ALP have substantially undermined the Australian wheat market. There is no doubt about that. Not only does that affect hardworking wheat farmers but also it affects the Australian economy. I have news for the member for Griffith. He comes in here and defies the chair at times. He has ambitions. He thinks he might be the Leader of the Opposition very shortly. In fact, he is working on it quite hard. I have never yet seen anyone with a short fuse become a leader, and he has got a short fuse. He blows very easily. I have got news for the member for Griffith: he will never be the Leader of the Opposition because I am certain that the Labor Party will not elect a person like him who cannot handle the heat in this place.

There are some pretty hard heads in my electorate who have been involved in farming for a very long time and in selling as well. When I walk along the street they say to me: ‘What’s going on down there in Canberra? Don’t people know how you sell in the Middle East? Don’t they know how you sell in Asia? Are they stupid or something that they do not understand the methods of selling in those countries?’ Of course, there are always payments. We do not like it. We have been selling wheat to Iraq for 50 years. Can anybody in opposition put their hand up and say they did not know that there may have been some payments in the sale of wheat to Iraq over that 50-year period? Can the member for Brand stand up as a former Minister for Finance and say that he did not have any idea that that might go on in those countries? Of course it does. The only thing we are worried about—and I think we should all be worried about—is whether some of that money went to the Saddam Hussein regime. That is the point that we are really debating here. So far, there has been no concrete evidence of that before the Cole commission of inquiry. I wait with bated breath to hear what Justice Cole has to say because, from the evidence at the present time, I doubt whether the boards even knew what was going on. There has been a lot of huff and puff coming from the opposition on this issue, but at this stage there is absolutely no substance to it.

I want to make one more comment, which I do not suppose will surprise the media because I have been having an ongoing row with them for a long time. Some of the statements that have come out of the media on this subject have been reprehensible, to say the least. They have not been reporting the full story. (Time expired)

The DEPUTY SPEAKER (Mr Barresi)—Order! The discussion is now concluded.
LEAVE OF ABSENCE

Mr PRICE (Chifley) (4.04 pm)—I move:
That leave of absence from 27 March to 7 August 2006 be given to Ms Livermore on the ground of maternity leave.

Question agreed to.

TAX LAWS AMENDMENT (2005 MEASURES No. 6) BILL 2005

Returned from the Senate

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

TAX LAWS AMENDMENT (2006 MEASURES No. 1) BILL 2006

Second Reading

Debate resumed.

Mrs HULL (Riverina) (4.05 pm)—It is a great pleasure to rise today to support the Tax Laws Amendment (2006 Measures No. 1) Bill 2006. There is a real need for Australia to attract skilled migrants to this country, and this bill addresses this. There are two issues within this bill that I would like to concentrate on. First is the issue of attracting skilled migrants and the exempting of foreign investment income from attracting—

Mr Price—Mr Deputy Speaker, at the invitation of the member for Paterson, I draw your attention to the state of the House.

The bells being rung—

Mr Baldwin—Mr Deputy Speaker, on a point of order: the Chief Opposition Whip referred to my invitation. I extended no invitation to the member for Chifley at all.

The DEPUTY SPEAKER (Mr Barresi)—There is no point of order.

Mr Baldwin—Mr Deputy Speaker, the member for Reid entered the chamber and then left the chamber. As I understand the standing orders, once you enter the chamber you cannot leave it.

Mr Bevis—He wasn’t in the chamber.

Mr Baldwin—He was in the chamber.

The DEPUTY SPEAKER—Thank you very much for alerting me to that. I did not see it.

(Quorum formed)

Mrs HULL—I will go to the most important part of my speech. That way, hopefully, I will get through it. I want to concentrate on an area which is very important to me but which I had entirely missed when I looked through this bill—that is, the measures to deter the promotion of tax exploitation schemes. Over the last 16 to 18 months, I have worked very closely with many groups of constituents in my electorate on an employment benefit arrangement scheme. All the good people in my electorate who were caught up in the scheme were absolutely in despair at the rulings of the Australian Taxation Office. A group of slick operators came through my electorate. My constituents are hardworking farming families and small business people. Generally, they are all-round, good Australians and are looking to save for their futures. Many of them continued to pay into the employment benefit arrangement scheme, claiming no deductions, after the scheme came under question by the Taxation Office. This caused enormous despair in my electorate for people who were looking at succession planning, investing in superannuation and trying to ensure that their family farms and family businesses were well set up.

These people had attended a presentation from a group of slick operators and everything appeared to be in order. There appeared to be a product ruling and a QC’s advice on the EBA scheme. My constituents use accountants, because that is what accountants are good at; otherwise, they could not do this for themselves. They are not experts in tax law and they relied on the presenters of this EBA scheme to tell them the truth. Unfortu-
nately, when the Commissioner of Taxation started to investigate this scheme we found that the product ruling and the QC’s opinion were not in fact for the scheme my constituents invested in. They found themselves in a very difficult situation. They owed debts, they had longstanding interest payments and they were in significant financial difficulty—through, I believe, no fault of their own.

It is said that many of these people were looking at direct tax avoidance. While the preamble to the bill does talk about tax avoidance, people with good intentions do get caught up. I represent people who are in this EBA scheme. I saw the absolute injustice of my constituents owing money and being in a state of despair, causing family disruption, illness and, worst of all, death. It was personally a very difficult issue for us to deal with. These people were bearing all the pain while the tax scheme promoters had all the gain. This was brought to my attention while we fought this case over a number of months. The member for Canning, the member for Mackellar and I made strong representations to many people to try to get this resolved. I must thank the former Minister for Revenue and Assistant Treasurer, Mal Brough, for his determination and effort in assisting me to work through this issue with my constituents and resolve this issue. Most importantly, I commend David Moore, the chief of staff of Minister Brough, who showed so much patience, diligence and willingness to assist my constituents through this issue.

The people who were unwittingly and unknowingly involved in these schemes were bearing all the pain while the promoters had all the gain. So I was quite keen to see something put in place so that in future the promoters of these tax exploitation schemes—if the schemes were not legal instruments and if the promoters did not have individual product rulings and QCs’ opinions on the individual products that they were pushing—would be the ones who could certainly be prosecuted for marketing such schemes and encouraging people to enter them by perhaps sometimes using false and misleading information or, in particular, vague and confusing information. When I was sitting here this morning, waiting for my turn to come up to speak on the amendment bill, I was really wanting to look at attracting skilled migrants to the Riverina area to address the skills shortage and I really wanted to speak on that. However, having come across this bill, I thought that it was more important to speak on this—and I notice that the Chief Opposition Whip has left the chamber so maybe I will get my opportunity to speak for a little longer.

I am very pleased to see schedule 3, covering measures to deter the promotion of tax exploitation schemes, come into the House. I urge the House and the Senate to pass this bill because too many innocent Australian workers, mums, dads and families are getting caught in something that they are not expert in and are then the victims of an enormous financial drain and enormous financial pain. I really must commend my constituents on the way in which they have handled themselves throughout this. Even though they have been in such precarious positions, they have not gone out and blamed anybody. They now recognise that some of the material they were given may have been misleading. I feel sorry for the accountants in my electorate who introduced some of my constituents to these schemes because I firmly believe that the accountants involved were also subject to and the victims of a slick overhead presentation operation that portrayed a product as something that it was not. I am very keen to see this piece of legislation enacted, and I am very keen to see those people who made so much money out of this scheme able to be prosecuted.
I know that the Minister for Revenue and Assistant Treasurer wants to wind this up so I will finish on the need to have an exemption for foreign source income. We have a shortage of skilled workers, doctors, accountants and lawyers in the electorate of Riverina. When you are wanting to attract people into skilled areas—and they could be engineers, scientists or people able to teach in veterinary science—you know that generally these people are very successful in the country they are currently in. If they are not to be penalised by our taxation laws when they come here, you need to have some sort of reprieve from the penalties for them. To allow the minister to finish this debate, I now commend the bill to the House.

Mr DUTTON (Dickson—Minister for Revenue and Assistant Treasurer) (4.18 pm)—in reply—I start my summing-up speech by thanking all of those members who have taken part in the debate on the Tax Laws Amendment (2006 Measures No. 1) Bill 2006. In particular I pay tribute to the member for Riverina for her words, although I have had the opportunity to be in the chamber for only a short period of time while she was speaking. I very much respect the work she has done for her constituents not just in this area but across many areas. I had the good fortune to visit her electorate last year and I heard of the respect that the constituents in her part of the world have for her. That is because of her actions on behalf of people who have been the victims of some of these promotion schemes or of other scurrilous activities by unscrupulous operators. Her hard work and the attention that she has given to those constituents is why they hold her in such high esteem. I congratulate her not only for the fantastic work that she does within her electorate but also for the very positive and constructive way in which she has contributed to this debate.

The first item that I want to speak about in my summing-up speech is temporary residents. It is no hidden secret that we have a very much contracting labour base and that, in particular, we have incredible demands on our labour internationally. We know that countries are adopting a more graduated approach to individuals entering and leaving the residents tax system. The first measure addresses this issue by providing improvements to the taxation arrangements for temporary residents which will give Australia one of the most competitive expatriate taxation regimes in the world. Temporary residents will be exempt from Australian tax on most foreign source income including capital gains. This exemption is confined to foreign source income and does not apply to their Australian source income or generally to salaries and wages. These amendments will also exempt temporary residents from interest withholding tax obligations associated with overseas liabilities and some record-keeping obligations.

By way of background, this measure was introduced into parliament twice in 2002 and was defeated—twice—by the Labor opposition in the Senate. As a result, the government withdrew the measure prior to the 2004 election. In the 2005 budget the government committed to pursuing the measure, recognising that it would reduce the costs to Australian business of employing highly mobile skilled labour as currently the extra tax costs are often passed on to employers. Since this measure was previously introduced, some beneficial changes have been made. Firstly, to reduce complexity there are no longer any arbitrary time limits. Secondly, temporary residents will be treated like nonresidents for capital gains tax purposes.

The rules for capital gains made on employees’ shares or rights have been made more explicit. The amendments will apply from 1 July 2006, except for the interest
withholding tax exemption which will apply from the day of royal assent. This measure does not favour temporary residents over Australian citizens when deciding who to employ. The government is committed to assisting businesses to access the skilled labour needed to compete internationally.

The second measure in this bill evolved from the 1999 review of business taxation where it was identified that there was a need to address expenditures known as ‘black hole expenditures’. Black hole expenditures are, for example, business expenditures incurred before a business commences or after it ceases. They also may evolve where business expenditures fall outside the scope of the various deduction provisions of the income tax law. The amendments in this bill provide for a systematic treatment of business black hole expenditures. This measure provides a five-year write-off for business capital expenditures incurred on or after 1 July 2005. This includes pre and post business expenses. As part of the systematic treatment, some black hole expenditures will be recognised by amending the capital gains tax regime and the elements of cost for depreciating assets. There is also a new five-year write-off for payments to terminate a lease or licence. This applies where these are a business expense. The new five-year write-off for business capital expenditures will be a provision of last resort. This means that it will apply only where business capital expenditures are not already taken into account and are not denied a deduction for the purposes of the income tax law.

The Treasurer has previously said that James Hardie will not be provided with special legislation and will be required to comply with Australian taxation law. If James Hardie makes a payment that is tax deductible or depreciable, it will be deductible or depreciable under Australian law. If James Hardie wants to take advantage of the black hole expenditure measures, it can take advantage of black hole expenditures. As with any other taxpayer, James Hardie can structure its payments to take advantage of the tax law. The black hole provision is one of last resort—that is, the expenditure must not already be recognised and not denied a deduction for the purposes of the income tax law. Therefore, for the James Hardie payments to be considered under the new measure they must not already be taken into account and not denied deductibility. This will be a matter for the Commissioner of Taxation to determine based on the facts and circumstances of the payments and subject, of course, to the passage of the legislation.

The Commissioner of Taxation has statutory responsibility for the interpretation of the income tax laws. The application of the law is a matter for the taxpayer and the commissioner. This amendment is a positive improvement to the tax laws for businesses. Earlier drafting of the measure and tax office interpretation of black hole expenditure was criticised as being restrictive. However, in an article a leading tax consulting firm has stated that:

The proposed amendments go a long way to addressing the issue.

The article also states:

It has been a long-standing problem and it has been helpful that the change has been made.

The third measure amends the law to introduce a civil penalty regime to deter the promotion of tax avoidance and tax evasion schemes. On 5 December 2003, the government announced that it would introduce a civil penalty regime to deter the promotion of tax exploitation schemes. Currently there are no civil or administrative penalties for the promotion of these schemes, with the result that promoters can obtain substantial profits while investors may be subject to penalties under the income law.
This bill will provide for greater symmetry by ensuring that promoters are at risk of penalty when they expose their clients to scheme penalties. This measure also provides for injunctions and voluntary undertakings. These remedies can be used by the Commissioner of Taxation to stop the promotion of schemes before taxpayers are put at undue risk. For an injunction or penalty to apply, a promoter will have to (1) market a scheme or encourage growth or interest in it, (2) receive consideration for that conduct and (3) have a substantial role in respect of marketing and encouragement. Implementers are affected only if they implement a scheme and promote it on the basis of conforming to a product ruling in a materially different way.

This measure has been welcomed by key industry commentators. Alan Cummine, Executive Director of plantation scheme Treefarm Investment Managers Australia was quoted as saying, ‘It is satisfying to see the government finally bringing this legislation to the parliament.’ Dr Dirkis of the Taxation Institute of Australia stated that the laws proposed in this bill fix problems with an earlier version of the promoter penalties—‘It’s now more focused on the promoter of the scheme.’

Finally, the fourth measure in this bill amends the A New Tax System (Goods and Services Tax) Act 1999 to clarify that prepaid phone card products are eligible vouchers for the purpose of division 100 of the act. This amendment puts beyond all doubt the fact that GST applies to these products when they are used and not when they are sold. As the amendment confirms the industry’s existing treatment of these products, it applies retrospectively from 1 July 2000. This amendment also clarifies that from 11 May 2005, GST is to be paid on the face value of the voucher. This ensures that for vouchers sold at less than their face value through a distribution chain any value added is subject to GST.

Additionally, the measure provides a simplified accounting arrangement for eligible vouchers supplied through a distribution chain which will apply from the date of royal assent. This amendment, of course, gives effect to the government’s announcement in the 2005-06 budget. This bill is another demonstration of the Howard government’s commitment to business, to providing support and certainty wherever it is possible and to addressing areas of concern that are brought to our attention, in particular through the consultation stage.

As part of my summing up speech, I want to thank all of those stakeholders who have had a considerable interest from day one in this issue. I also want to pay tribute to the previous minister and of course to Treasury for the efforts they have put in to come to this conclusion. It is, as I say, about the government consulting with business, about addressing concerns that businesses have, about helping them employ more Australians and ultimately about helping Australian families. For these reasons, as I have outlined, I commend the bill to the House.

Debate interrupted.

ADJOURNMENT

The SPEAKER—Order! It being 4.30 pm, I propose the question:

That the House do now adjourn.

Dental Health

Ms OWENS (Parramatta) (4.30 pm)—This week we see the government celebrating 10 years in office. For many Australians it is not a celebration but a commiseration. I am going to concentrate on just one area today—that is, dental care. It is a good area to concentrate on because the Howard government acted on dental care policy as one of its first acts in government in 1996, when it
abolished federal funding for public dental programs. So after 10 years we can see the full effect of the Howard government's policy on dental care: over half a million people in Australia are waiting for dental care as a result of this policy introduced in 1996.

Even worse than the numbers is the growing inequality in dental care. Studies by the Australian Health Ministers Advisory Council show that children in poor groups now have twice as many rotten teeth as those in wealthy groups. While the majority of people in Australia have no decay and on the whole our dental health is quite good, 20 per cent of the population has 80 per cent of the disease—a clear disparity between those at the wealthier end of society and those at the poorer end. It is particularly bad for children, with less than half of eligible children getting treatment in the 2004 year. There has been a sharp rise in the number of children needing emergency care after mild toothaches which did not receive treatment developed into very serious medical conditions. In fact, the number of children admitted to hospital for the removal or restoration of teeth has doubled since the Howard government came to office. It has doubled over the past decade. Children put under general anaesthetic in New South Wales alone number more than 100 per month. That is children going into hospital and being put under a general anaesthetic because they did not get the treatment they needed early enough and their conditions became incredibly serious.

The picture is also worse for adults. Low-income adults without private dental insurance are 25 times more likely to have had all their teeth extracted than high-income adults with insurance. Those figures are provided by the Australian Institute of Health and Welfare Dental Statistics and Research. They are 25 times more likely to have all their teeth extracted than people in the wealthier areas of society. Without support for dental health, we have seen a clear and growing divide between the rich and the poor in this country over the 10 years of this government.

But this government actually does put money into dental care: through the private health rebate—a scheme we heard praised today in the parliament and over and over again during the week. It is an interesting scheme in that it subsidises the wealthier end of society for dental services to a greater extent than it subsidises the poor. Those of us who can afford to have cosmetic dentistry, to have caps and to go back for good maintenance receive a significantly higher subsidy than those at the poor end of the scale, if they can get in at all.

It is extraordinary that, over the 10 years of the Howard government, we have seen $100 million ripped out of dental health for the poor and poured into dental health for the rich. What kind of country are we when we see people at the poor end of society losing their teeth at 25 times the rate of others because we have ripped out the subsidy for them and given it to the wealthier end of society?

It is about time this government stopped playing the blame game: blaming the states and claiming that dental health is not a federal responsibility.

Mr Secker—It’s not.

Ms OWENS—It clearly is. It is in the Constitution as a federal responsibility. Up until 1997 the Commonwealth government did fund it, otherwise you would not have had to abolish it.

Mr Secker interjecting—

Ms OWENS—The Commonwealth was funding it; that is why you had to abolish it. You decided to make it not a federal responsibility, you decided to walk away, and now you are again blaming the states for your decision. Not only that, you do fund dental
health, so clearly it is a federal responsibility. You fund it for the wealthy. You fund it through the private health rebate. You fund dental health care. So do not sit there and say it is not a federal responsibility when you actually do fund it.

Ms OWENS—It is about time you bit the bullet with your well-funded, private health insured teeth and gave some assistance to the poor in this country, whose dental health has been deteriorating every day under the 10 years of this government.

Mr Secker interjecting—

Ms OWENS—It is about time you bit the bullet with your well-funded, private health insured teeth and gave some assistance to the poor in this country, whose dental health has been deteriorating every day under the 10 years of this government.

The SPEAKER—Order! It would help the chair if the member for Parramatta would address her remarks through the chair.

Mallee Electorate: Road Accident

Mr FORREST (Mallee) (4.35 pm)—I wish tonight to make a few remarks about the terrible motor vehicle accident which occurred at Cardross, near Mildura, on 18 February this year. It was such a dreadful tragedy, and it has had an incredible impact on the local community. But it has also affected the nation. At the outset can I say that it is not my intention to reflect in any way on pending court actions. I do need you to be comfortable with that, Mr Speaker. I wish only to make a tribute to six young, precious Australians.

It was not my intention initially to draw attention to the tragedy in this way. There has already been much said and much comment in the media. For the families and friends of these young people I have felt in the last two weeks the need not to intrude on their terrible grief. However, so many people around the precincts of the parliament have expressed their condolences to me. Senators and members from all sides of the political divide have expressed very sincere sympathies, and so have many members of staff of the chambers. I have been very humbled by these very sincere expressions of empathy for the families associated with these young Australians. So in trying to find a way to convey these sentiments to the families and to the friends of these young people I thought it wise to make a short statement to this House which draws together, I believe, those expressions of empathy.

I was delighted that the Governor-General, His Excellency Major General Michael Jeffery, sent a formal letter of condolence the week after the accident. This was delivered to the civic leaders of the Mildura Rural City Council, and was very much appreciated by the whole community. In that way, the Governor-General has spoken for us all. What the Governor-General was expressing was the deep shock that we all felt. All of us think of our own children, and our hearts go out to the parents of these youngsters. The nation has many precious resources, but the most precious of all are our youngsters. To see lives so brutally snuffed out and people denied the realisation of their potential affects us all. Six young people have been lost to the nation; seven others were severely injured, and two of those are still in critical condition in hospital.

I would like to read into the record the names of these youngsters. Cory Dowling was just 16 years of age. The funeral was conducted on Thursday last week. To Cory’s parent, Rex Dowling, a single parent raising his son, the nation extends enormous sympathy.

There were two youngsters from one family, Shane Hirst, 16 years of age, and Abby Hirst, 17 years of age. Their funerals were conducted last Friday morning. Our hearts go out to their parents, Kerry Prowse and Terry Hirst.

Cassandra Manners was 16 years of age. Her funeral was conducted on Friday afternoon last week. Her parents are Michael and Sharon Manners.
Stevie-Lee Weight was 15 years of age. Her funeral was conducted on Saturday, 25 February. Her parents are Jennie-May and Stephen Weight. We feel the grief that they are feeling.

Josephine Calvi, at 16 years of age, died later in the Royal Children’s Hospital in Melbourne. My heart goes out to her parents, Carmel and Vince Calvi.

These are all youngsters who come from my boyhood township of Red Cliffs. It is a very small community where my own family—two brothers and my mother—still live. All of these families are known to us.

The two people still enduring their recovery are Marco Medici, who is 15 years of age and in the Alfred Hospital still in a critical condition, and Nick Pezanti, who is 14 years of age and recovering in the Royal Children’s Hospital. Our heartfelt sympathies are extended to their parents and friends. (Time expired)

Howard Government

Mr GEORGANAS (Hindmarsh) (4.40 pm)—The cliche is that a day is a long time in politics. The way the parliament, the media, and the Australian public engage in issues and non-issues makes this statement, at times, most appropriate. A term in government is, comparatively, a gift. A decade in power is a true privilege. Those in power for a decade are arguably the most privileged people in public life, and this government has used that opportunity to re-create Australian life in its own image. And what shape has Australia taken? What characteristics that may be common among people has this government purposefully concentrated on, nurtured and promoted among our nation’s people?

The most significant element of this government’s 10-year approach to government is evident in the way it treats people, and the encouragement it gives Australians to treat others in the same way. This government has spent the last 10 years training Australians how to treat each other and other peoples. Two of the greatest mechanisms of this encouragement have been Work Choices and its migrant worker visa system.

It is amazing to note that even though Work Choices has not even been implemented yet we are seeing the effect it is having. A human resource company recently advertised some industrial labour solutions and were gloating that they can now fix situations permanently through, and I quote from one of their letters: ‘No more EBAs. No unfair dismissals. No casuals into full time. No redundancies. No unions. No problems.’ That is what they wrote in a letter advertising their company.

The Melbourne car parts manufacturer, Dana, has clawed back 20 per cent of the wages and other entitlements of new employees. That is another example. Bakers Delight workers are losing sick and annual leave entitlements with compensation of as little as 75c an hour, and having to work evenings, weekends and public holidays without penalty rates. That is another example. That is Australians getting less money, less time off and less stability for the same work. That is great progress in 10 years—less money. What we have is a government that encourages your employer to give you less money. That is what this government has achieved in 10 years.

This government is reinforcing this downward pressure with its migration strategy. I will list some examples of what it has engineered. Two hundred temporary workers from China are to be issued with visas to work at an abattoir in South Australia at Murray Bridge—a town with unemployment way above the national average and where late last year a major employer closed down with around 160 workers losing their jobs.
The second example is workers from overseas who have been given visas to work in well-known Canberra restaurants claiming they have been underpaid, have worked dangerously excessive workloads and have been refused medical treatment when suffering third-degree burns.

The third example is Slovenian workers being issued with the wrong type of visa and brought in to build part of the General Motors Holden production line at Elizabeth in South Australia. Elizabeth is another area that has high unemployment and where many car workers have recently lost their jobs. Another example is the investigation into US company Halliburton importing Indonesian workers to work 12-hour shifts for 80 days without a break digging ditches for its gas extraction operations in the outback in South Australia.

They are just a few of the examples that have come to light in the last month or so. Almost daily, there are new examples coming to light of employers being issued visas by the government to bring in temporary workers from overseas—many of whom will be exploited with low pay and poor employment conditions. The migration strategy will lead to cheap unskilled labour being imported from overseas that will be masqueraded as apprenticeships. This government is encouraging business to say to young Australians, ‘I’m not going to give you a job, let alone training. Go on the dole until I offer you a job worth half as much, and you’ll be forced to take it for fear of a Centrelink breach and total loss of income.’ That is what we are coming to.

This is the attitude of this government. This government has spent 10 years developing, nurturing and actively encouraging the use of both skilled and unskilled migrant workers as disposable industrial tools, and it is consistent with this government’s warped views on Australia and ‘real Australians’. Scratch the surface, and you will still find the Prime Minister’s views of 1988. All you had to do was listen to the Minister for Health and Ageing here in this chamber two days ago during question time and you would have heard very clearly what they believe in.

This 10 years has not only affected Australian workers, young Australians in need of training and Australians without an Anglo-Celtic surname, like myself. Another group, one of the most potentially dependent on the goodwill of this nation, has had 10 years of sweet-talking, courting and not much else: our elderly. In 1996 the number of aged care beds for people aged 70 and over was 92 per thousand— (Time expired)

Howard Government

Dental Health

Mr SECKER (Barker) (4.45 pm)—I was going to speak on some other matters, but I cannot let pass some misleading by the Labor Party, including the two Labor Party members who have spoken here tonight. The member for Hindmarsh has just said that Murray Bridge has a high unemployment level which is higher than the national average. That may have been the case 7½ years ago when I was elected, when the unemployment rate was about 14 per cent, but it is actually now below the national average. Does the member for Hindmarsh realise that the state Labor government had to tick off on the fact that there was a labour shortage in the area for the 457 visas for the people coming from China to work at the T&R meatworks? I think the Labor Party should get its facts right, and I think it is very dangerous ground—almost bordering on the racist area of public policy, the whispering campaign—for the member for Hindmarsh to come in here and say that they should not be doing that.
There are clear labour shortages in Murray Bridge. They have been trying and they continue to try to get local workers, and they were faced with a situation where they could not. I think the member for Hindmarsh not only owes the company in Murray Bridge an apology, but he also needs to apologise to the township of Murray Bridge, because they have done enormous things there to ensure that development is occurring and that jobs have been created in that area. The member for Hindmarsh should stick to his own area, which I hope he knows something about, because I can assure you he certainly does not know anything about the Murray Bridge area.

It was also very interesting for the member for Parramatta to continue with this Labor lie that, under our Constitution, the federal government has responsibility for dental health. I challenge the member for Parramatta, or any Labor member, to table the place in the Constitution where it says dental health is the responsibility of the federal government. It is not. I have seen this Labor lie also peddled by the member for Adelaide in an Advertiser article some weeks ago. The thing that happened in 1993 was that the Keating Labor government knew that the state governments around Australia were not doing their job on dental health, so Keating came up with a program that was to end in 1996 to try to reduce some of those waiting lists. That program was due to end in 1996 and we did not renew it because, for one thing, we had to repay the $96 billion worth of debt that the federal Labor government had left us.

It is very interesting to look at the Labor debt that this country was left. Since Federation in 1901, we had to build a new capital, we had to build the Army, the Navy and the Air Force, we had to go through a depression and we had two world wars and several other serious skirmishes. In the 90-year period from 1901 to 1990 we accumulated, as a nation, $16 billion worth of national debt. Going through all of those expenditures where we had to start from scratch, we accumulated as a nation $16 billion worth of debt. From 1990, what we took 90 years to do as a country was repeated every year for the next five years. So we went from $16 billion to $96 billion in five years under Labor. It is no wonder that this government had to get the Treasury and our finances back in order and—boy!—have we done that.

By the end of this financial year, we will have reduced our debt to zero. Our net government debt will be zero. It will be the first government in Australia’s history to actually have a net debt of zero. Tell me of any other government in the world that has been able to create those sorts of conditions. I do not believe there is one. To get that debt level down from $96 billion and at the same time reduce unemployment, we have created 1.7 million jobs and we have reduced the interest rate. If you want to look at the history of this government, I think we can stand very proud of the fact that we have the best government this country has ever seen. (Time expired)

Howard Government

Mr WILKIE (Swan) (4.50 pm)—I rise to speak on the adjournment to mark the anniversary of the election of the Howard government to office 10 years ago today. Like many Australians, I am disappointed that the Howard government has racked up 10 years of missed opportunities, 10 years of complacency, 10 years of empty rhetoric and 10 years of misleading the Australian people. Just cast your mind back to some of the incidents which have highlighted the fundamental dishonesty and unscrupulous behaviour of this government.

The lowest point, until the current massive AWB scandal, was the ‘children overboard’ incident, where the Howard government
falsely claimed that refugees had been throwing their children overboard. The Howard government exploited this unfortunate and tragic event in the most callous and cynical way and, in so doing, deliberately sought to undermine the credibility and professionalism of Australia’s armed forces. Indeed, the government’s treatment of Defence Force personnel in demanding their complicity in this grubby little exercise was without doubt one of the nastiest episodes in the Howard government’s history.

Today we have heard supporters and critics of the Howard government, and the Prime Minister himself, commenting on the 10-year anniversary. There are many words which accurately summarise this government’s time in office. My personal favourites and the ones which I think most aptly convey the tone and behaviour of the Howard government are two words which I must declare I am borrowing from the former President of the Liberal Party, Shane Stone—‘mean’ and ‘tricky’. So much of this government’s agenda is mean and tricky. The Howard government’s decisions affecting senior Australians in my electorate of Swan have been mean and tricky. We have fewer aged care beds today than we had 10 years ago. The elderly have been denied access to dental treatment by the government’s abolition of the Commonwealth dental program. The Commonwealth has removed free hearing aids and hearing services for health card holders. The government has cut pensions for those with some savings by changing the deeming rules. The government has cut pensions for those who earn a little extra money by abolishing the earnings credit scheme. Sneaky new pension payment systems have been introduced which short-change pensioners when payments are indexed. Massive price hikes for PBS medicines have outstripped pharmaceutical allowance increases. And, just last December, we saw this mean and tricky government remove calcium tablets from the PBS for all but those patients with renal conditions. The decision by the Minister for Health and Ageing to do this was in direct contravention of the advice of the Pharmaceutical Benefits Advisory Committee, and it will impact severely on older people with osteoporosis.

The tragedy is that it is our seniors who should be amongst the highest priorities of any government. Every one of us owes them a debt of gratitude. These are our parents and our grandparents. Many of them lived through the Great Depression and world war, and they deserve to be honoured and treated with dignity in their retirement years. You can imagine how disturbed and upset many of them are at the relentless reductions in the services which the federal government provides. When I meet with seniors in my electorate, they tell me of their disquiet about their financial security being constantly under attack. One of the seniors said to me recently that what upsets him most when he contemplates the seemingly constant reductions in pension benefits and services is the attack on his pride and dignity. After years of hard work and duty, he and his wife feel that they deserve better than the constant reductions in their entitlements by this mean and tricky government.

Mean and tricky can be applied to many aspects of this government. Do honourable members recall this document I have here? Back in 1998, the Prime Minister was forced by a spate of ministerial misbehaviours to issue this document: A guide on key elements of ministerial responsibility. It is essentially the Howard government’s rule book, and it makes very interesting reading. I draw the attention of the House to one clause of the guide on page 10:

Ministers must be honest in their public dealings and should not intentionally mislead the Parliament or the public. Any misconception caused
inadvertently should be corrected at the earliest opportunity.

That is pretty clear, isn’t it? You do not need a lawyer’s opinion to understand that one. Yet time and time again ministers are in flagrant breach of this requirement and the Prime Minister enthusiastically presides over such contraventions, making a mockery of his very own standards.

We are seeing further flouting of the Prime Minister’s rule book at the moment in the context of the AWB scandal. The Deputy Prime Minister unequivocally informed the parliament last year that the first time he was made aware of allegations about AWB was when the Volcker inquiry report was released. Yesterday he admitted to the House that he had been aware of such allegations in 2000. It is an open and shut case: the Deputy Prime Minister misled the House and he is in breach of the clause which I just read to the House from the Prime Minister’s rule book. The Prime Minister should put him out of his misery and sack him for making false statements to the parliament and for being undeniably out of his depth in a job well beyond his capabilities.

On this 10th anniversary of the election of the Howard government, it is timely to reflect on the fact that we have a Prime Minister who allows ministers to mislead the parliament with impunity. He presides over a complacent government, big on rhetoric and short on action. He presides over a government which has been mean and tricky in its treatment of ordinary Australians but generous and expansive to the top end of town. Sadly, history will be a harsh judge of the Howard government’s record. The epitaph on the Prime Minister’s political grave will be ‘mean and tricky’. (Time expired)

**Hawkesbury River**

Mr BARTLETT (Macquarie) (4.55 pm)—I rise to speak on a matter of great concern to my electorate—the health of the Hawkesbury River and its catchment. This river catchment is one of immense importance environmentally, economically and socially. The catchment provides drinking water for four million people in Sydney and its environs. It is responsible for over $1 billion worth of agricultural production and 70 per cent of the production of goods and services in New South Wales. Yet the Hawkesbury River system is currently under severe stress: low environmental flows, excessive and increasing concentrations of nutrients and recent devastating outbreaks of weed. At the moment, there is a widespread outbreak of *egerra* and, in 2004, there was a devastating outbreak of *Salvinia molesta*.

The Hawkesbury River has been affected by the failure of the Sydney Catchment Authority, Sydney Water and the New South Wales government to undertake the long-term planning necessary to ensure Sydney’s water supplies. There has been no planning for a second dam to ensure Sydney’s water supplies. There has been no planning for any serious attempt at, or consideration of, recycling. Instead, it has been a matter of them sitting on their hands and hoping that something will come up.

The result of this neglect is obvious. We saw in May last year a desperate measure by the New South Wales government to halve the environmental flows out of Warragamba Dam to ensure the conservation of water for Warragamba. That was understandable, given the effects of the drought; but only was it an issue because the state government had failed for 10 years to look at any serious alternative long-term planning for and sustainable approach to Sydney’s water needs.

The result of that reduction in environmental flows is obvious for anyone living downstream from Warragamba—higher concentrations of nutrients and at times some 50
per cent to 80 per cent of the flow in the Hawkesbury River consisting of outflows from the sewage treatment plants in the catchment upstream from the Hawkesbury. It is an unsustainable and unsatisfactory situation. As well as that, massive weed outbreaks have occurred as a result of those high concentrations of nutrients in the river.

What have we seen from the state government? Instead of seriously looking at the issue, we have just seen pie-in-the-sky proposals to give the appearance that they are doing something about it. The desalination proposal was going to be the great saviour of Sydney’s water supplies. Even Bob Carr ridiculed it at one stage by saying that desalination water was bottled electricity, requiring twice the energy usage of recycling. Instead of any serious attempt to do something about the situation, the state government have made grand announcements of what they will try and do down the track to give the perception of action to clothe their culpable inaction.

Finally, after public outcries and protests and after ridicule by the scientific community, they decided to scrap that proposal because it was clearly not going to work. What did we then find? Just a few weeks ago, the Iemma government discovered some great water-bearing aquifers under Western Sydney that were now going to be the saviour of Sydney’s water supply. Again, it is not sustainable. Again, it is an attempt to give the appearance of action to clothe their culpable inaction.

In the meantime, in the midst of all these announcements, what have we got? We have reduced environmental flows, widespread weed outbreaks and reduced safety for recreational use in the Hawkesbury. About a year ago, we had the appalling decision by the state government to scrap the regular monitoring of water quality in the Hawkesbury to ensure that it was safe for recreational use. In other words, the government did not want the truth about the poor quality of the water to be revealed. The solution to Sydney’s water needs is recycling—450 billion litres a year. We need to address this seriously.

The SPEAKER—Order! It being 5 pm, the debate is interrupted.

House adjourned at 5.00 pm

NOTICES

The following notices were given:

Ms King to move:
That this House:
(1) recognise that:
   (a) across all conflicts, from the Boer War to the Korean War, some 35,000 Australians were held as Prisoners of War (POW);
   (b) PoWs suffered unimaginable trauma with 8000 dying in captivity;
   (c) many PoWs are now in their 80s and that due recognition needs to be urgently given to their experiences; and
   (d) Australian Ex-PoWs have worked to compile the list of Australians held as prisoners during wartime and that their names now appear on a memorial in Ballarat; and

(2) acknowledge that for Australian PoWs the memorial in Ballarat has national significance.

Mr Melham to move:
That this House:
(1) note:
   (a) the recent report by independent experts for the United Nations Human Rights Commission that calls for the immediate closure of the United States military’s Guantanamo Bay detention centre;
   (b) that United Nations Secretary-General, Kofi Annan, has strongly supported the
call for the immediate closure of the Guan-
tanamo Bay detention facility;

(c) that the United Nations investigators
held that view that the legal regime ap-
plied to the persons detained at Guantanamo
Bay seriously undermines the rule of law and
a number of fundamental universally recog-
nised human rights;

(d) that numerous eminent international and
Australian lawyers, including former High
Court judge Mary Gaudron, have expressed
the view that the United States Military
Commission process applied to Guan-
tanamo Bay detainees is fundamentally
flawed and contrary to the rule of law and the
right to a fair trial; and

(e) that an Australian citizen, Mr David
Hicks, has now been detained at Guan-
tanamo Bay without trial for more than four
years; and

(2) call on the Australian Government to:

(a) repudiate its support for Mr Hicks’ de-
tention and prospective trial by a United
States Military Commission;

(b) take all necessary measures to ensure
that Mr Hicks is dealt with according to in-
ternational recognised standards of justice,
most importantly the right to a fair trial; and

(c) support the United Nations Secretary-
General’s call for the immediate closure of
the Guantanamo Bay detention centre. (No-
tice given 2 March 2006.)
The DEPUTY SPEAKER (Hon. IR Causley) took the chair at 9.30 am.

STATEMENTS BY MEMBERS

Welfare to Work

Ms HALL (Shortland) (9.30 am)—Today, which marks the 10th anniversary of the Howard government, I thought I would share with the House the impact of Howard government legislation and the way it has changed the life of one ordinary Australian who lives in Shortland electorate. This gentleman applied for the disability support pension after the government brought through its Welfare to Work legislation. This gentleman was assessed by Centrelink and it was determined that he had the level of disability—he obtained the 20 points needed—to be eligible for the disability support pension. But, in their wisdom, Centrelink determined that, with the right amount of training and the right amount of support, this gentleman would be able to return to the workforce.

I assisted him in putting in an application to the authorised review officer and wrote to the Minister for Human Services because I was very concerned that he had a certificate from his doctor stating that under no circumstances should this man work. He had been assessed as being eligible for the disability support pension, yet, because of the legislation this government has passed, it was determined that he should return to the workforce and that he could do so with the appropriate level of training. I might add that the gentleman has no literacy skills whatsoever. He comes from a non-English-speaking background, and the only work he has ever done has been manual work.

Anyhow, Centrelink referred him to CRS Australia. I am sure it will not be any surprise to the House that the letter I received from CRS Australia stated: ‘We will not be offering this gentleman a vocational rehabilitation program.’ He had previously participated in an occupational rehabilitation program that included a physical upgrading component and explored vocational options, but, based on his physical restrictions, limited transferable skills, limited educational background and non-English-speaking background, CRS Australia decided that he was unsuitable for a vocational rehabilitation program. This is the man that this government said should go back to work. This is the man that this government has placed at risk through its mean-spirited legislation that it passed through this House.

Howard Government
Ryan Electorate

Mr JOHNSON (Ryan) (9.33 am)—Ten years ago today, on 2 March 1996, the people of Australia elected the coalition government to office to look after the affairs of this nation. In so doing, the people of Australia also elected John Howard to become this country’s Prime Minister. On this occasion, I want to congratulate the Prime Minister on a significant milestone in our country’s history. I want to thank him for his leadership and for his commitment to our country: to try to make this a better nation for all of us and for those Australians who are to follow.

I have been privileged to have been part of two of those four elections that we celebrate today. I have had the great pleasure of representing the electorate of Ryan in the last 4½ to five
years. In the parliament today, on this auspicious occasion, I re dedicate myself and recommit myself to the electorate which I have the great honour of representing. Ryan is a federal seat in Brisbane that covers mostly the western suburbs of Brisbane. It is a wonderful part of Brisbane. It is a place where families can live together in harmony and prosper. We have wonderful schools. We have wonderful facilities. Those of us who are residents of this part of Brisbane say that we live in one of the nicest places in Queensland.

A couple of weeks ago the electorate of Ryan was ranked fifth on an index of the happiest electorates in the country. Last week in my electorate a number of people came up to me and congratulated me on this achievement, but I told them it was more a reflection on the character of the people who live in Ryan, who are very civilly oriented and community minded.

Being in government is about making a difference in people’s lives. It is about creating jobs and addressing health needs. It is about making a real impact on people’s lives on things like mortgage rates and funding for roads. We have addressed government debt. We all know that when the Howard government came to office in 1996 this country had government debt of $96 billion. The debt is now retired—there is no more Commonwealth debt—and this will make a difference for future Australians. It means money that would have been spent on interest payments can now be allocated to essential services.

Politics is a profession that people sometimes criticise. All politicians are subject to criticism because of the profession we are in. But I think it is a noble profession and it is a great honour. As representative of the people of Ryan in this parliament, I say again that I am deeply privileged to have their vote of confidence.

Diabetes

Mr MURPHY (Lowe) (9.36 am)—According to the Department of Health and Ageing website, chronic illnesses, including diabetes, are shaping up as one of the greatest health challenges for Australia in the 21st century. It is refreshing to read an admission that diabetes is of major concern to the department. Sadly, however, such departmental admissions provide cold comfort to diabetes sufferers at a time when the government seemingly does not share its own department’s concerns.

Type 1 diabetes is an illness which affects thousands of Australians. In layman’s terms it is an illness where the pancreas cannot produce insulin because the cells producing insulin have been destroyed by the body’s immune system. With access to effective treatments it is an illness that will not create an impediment to leading a relatively normal life. Yet, despite the availability of effective treatments on the open market, diabetes remains an illness that continues to cry out for more deserving attention from the government.

I am appreciative of the information and advice given to me by several constituents in my electorate of Lowe who have succinctly and honestly described the illness and how more can be done to assist them. I have been moved by their descriptions of having to experience frequent injections, the pain from heavily punctured skin, vomiting, nausea, fatigue and blurred vision. This is not to mention their frustration at being unable to work or function with any certainty due to the peaks and troughs of traditional insulin treatments.

Yes, amongst the described hardships, all of those in contact with me have preached the virtue of Lantus, a long-lasting insulin which, unlike other treatments, does not have short-term peaks and troughs. This is achieved by providing a steady release of insulin to the body,
controlling blood glucose levels and keeping cells supplied with energy when no food is being digested. Remarkably, despite four applications to the Pharmaceutical Benefits Advisory Committee, Lantus is still not listed on the Pharmaceutical Benefits Scheme. I have analysed the committee’s public summary documents and understand that the listing has been refused on the grounds of ‘uncertain overall benefit’ and ‘an uncertain and unacceptably high cost-effectiveness ratio’.

This decision has left my constituents with no choice but to pay over $100 a month for the drug or switch to a more ineffective form of treatment. It is therefore pertinent to look more closely at each of the committee’s main grounds. In contrast to the committee’s findings, I note the following: firstly, the Juvenile Diabetes Research Foundation has commented that Lantus has been demonstrably effective at reducing the incidence of hypoglycaemic attack; secondly, Diabetes Australia’s New South Wales President, Dr Neville Howard, has commented that fluctuations in blood glucose levels are reduced considerably by Lantus; and, finally, Dr Matt Cohen, Director of Medical Services at the International Diabetes Institute, has stated that Lantus is ‘a very big step in the treatment of any insulin treated patient’.

Allowing those inflicted with diabetes to continue to suffer because of notions including allegedly high cost-effectiveness ratios is unconscionable and ought to be rectified by the government immediately. I fear that Australia’s health system is increasingly becoming one that can only cater for those who can bear the astronomical costs of treatment. The time has come for the government to bring back the ‘care’ in health care. It can start by listing Lantus on the PBS. (Time expired)

Ms Hayley Robinson

Mr SLIPPER (Fisher) (9.39 am)—Today I am here to talk about a local business operator on the Sunshine Coast who is doing a wonderful job in the face of adversity. Sister, an organic cafe owned and operated by Hayley Robinson, is nestled in the beautiful, lush hinterland of the Sunshine Coast and has recently celebrated its first anniversary. What makes this cafe an inspiration is the journey involved in getting it up and running. In 1996 Hayley started her apprenticeship as a chef in Byron Bay, continued her training in Wollongong and completed her trade at Ayers Rock with a view to travel. She landed in London, where an interview was held with Ben O’Donahue from ABC’s Surfing the menu. This experience in London of working with the brilliant combination of Ben and the Naked Chef, Jamie Oliver, introduced her to a wonderful world of exciting recipes, cookbooks, cooking programs, food styling and more experiences than any young chef could dream of. The world renowned chefs introduced Hayley to amazing people and taught her how to work smart in this trade as well as how to have a good time.

Returning home to Australia for a break and a family wedding and waiting for her four-year work permit to be processed, Hayley noticed her general health was not the best and discovered a small lump in her armpit. Routine tests and checks in February 2003 diagnosed it to be Hodgkin’s lymphoma. Instead of heading overseas, Hayley’s world was turned upside down. She now had to face cancer, a halt to an exciting cosmopolitan lifestyle and a world of chemotherapy, radiation and some heavy duty decision making. She ended up on the Sunshine Coast to begin her journey back to physical and emotional health.

Hayley decided against the conventional course of treatment, opting to help her body heal itself. Her new lifestyle now consisted of clean living, organic food, chiropractic care and
emotional healing. After the initial shock and drastic changes, she began to settle in: her new life was not the burden she originally felt but a gift for which she is now extremely grateful. This bumpy journey has brought her to where she is today. The organic cafe Sister has enabled her to live the lifestyle that a healthy body requires and to continue her great love of cooking. Hayley is honoured to have been embraced by a community whose members are so eager to share both their produce and recipes as well as their journeys with cancer and a little of their lives with her. In return, she hopes to provide a fun, warm place for them to enjoy fresh, organic food with friends whilst supporting local farmers. Hayley Robinson is an inspiration to us all and I salute her in this place.

Prostate Cancer

Mrs ELLIOT (Richmond) (9.42 am)—I want to take this opportunity to thank my local community for their incredible effort in supporting awareness of a very important men’s health issue, prostate cancer. Tragically, prostate cancer kills 2,600 Australian men a year, but it can be treatable with early detection. Whilst prostate cancer is responsible for virtually the same number of deaths in Australia as breast cancer, community awareness of the issue is nowhere near as high as that of breast cancer. Unfortunately, Australian men are traditionally much less likely to seek help or treatment. Many men just do not know enough about this deadly disease. To help address this problem, I held a free community information session last week in my electorate of Richmond. I was overwhelmed by the response from our local community. Over 300 men and their concerned wives, daughters and mothers came along to hear about what prostate cancer is, how it can affect men and their families and what can be done about it.

Special thanks go to our guest speakers who very kindly donated their precious time, effort and expertise to this great cause. The main guest speaker, Wayne Swan, gave a very stirring and candid speech detailing his personal experience of this terrible disease. Wayne’s commitment to raising public awareness of prostate cancer amongst Australian men is truly commendable. Dr Allistair Campbell, a local urologist, kindly took time out of his busy schedule to share his expertise with us. His wealth of knowledge and experience in the area was highly appreciated by the audience. To Sue Bedford, another local health professional—a specialist community nurse from Tweed Hospital—thank you for giving such an informative speech. Thanks go to Roger Large and Don Baumber, who have both experienced prostate cancer and now give up so much of their time to provide support to other men in a similar situation.

I also thank all the members of the Prostate Cancer Support Group for helping to make the day so successful. A special mention also needs to be made of South Tweed Sports Club, who very kindly donated their conference room and facilities for this community information session. It is clubs like this that form the backbone of our community. Without the club’s donation of facilities and the support of their friendly staff, this information session would not have been a reality. Thanks so much, South Tweed Sports Club.

I would also like to thank the Cancer Council and the local staff of the Department of Veterans’ Affairs for their presence on the day and for the information they were able to present to the people who attended. Prostate cancer is an important issue because men’s lives are at stake, and that is why it was great to see so much community involvement in my prostate cancer awareness session. Again, I thank all the people who were involved. It really is great to see what we as a community can achieve by working together to raise awareness throughout
the community about this terrible disease and the effects it has on men and their loved ones. I commend everyone who was involved. It was a very successful day and will continue to raise awareness throughout the community about this very tragic disease.

**Australian Organ Donor Register**

*Mr NEVILLE (Hinkler) (9.45 am)—It seems that we are in health mode this morning. I commend the member for Richmond for her work on prostate cancer; I think it is marvellous for a member of parliament to do that. I want to talk about another health matter today, and that is the Australian Organ Donor Register. We are coming to the end of a national awareness week campaign. Organ donation is perhaps the greatest gift anyone can give another person. Australia has an urgent need for more donors willing to give the gift of life. I find it bewildering that Australians have one of the highest transplant success rates but one of the lowest donation rates in the developed world. That seems to be an irony. At the start of this year, 1,716 people were waiting for organs, but they will have a terribly long wait if history is anything to go by. Sadly, many will die waiting for the organ they need.*

*Last year, there were 204 deceased donors in Australia from whom 735 people received organs. So your organs can help up to three or four people. Another 246 transplants were performed on living donors. At the end of the year, more than 710,000 Australians will have registered on the organ donor list, with Queensland accounting for 21 per cent of the register. Interestingly, there are around 100,000 more women than men on the register and, of all age groups, women aged 35 to 45 lead the way in signing up. An overwhelming number of people think that registering as an organ donor is something they will do at some stage in the future. They say, ‘Yes, I’m happy to do that; I’ll do that some time.’ It is extraordinary that 4.8 million people have said they will donate their organs, but only 700,000 have got around to registering. In other words, only one person in seven has filled out the little card.*

*I suppose it is a challenge to all of us and to members of parliament. I am pleased to say that my whole staff have signed up—not by any urging from me. I signed up last week and I urge all of us to do that. If we as members of parliament do not show leadership on this matter, how will we encourage other people to do so? All you have to do is go into a Medicare office to sign up. Just imagine how many more people could have the gift of life if five million people had signed up. I commend the Australian Organ Donor Register. I think it is a very commendable program. (Time expired)*

**Indonesia: Film-Making**

*Mr GARRETT (Kingsford Smith) (9.48 am)—Indonesia has only recently emerged from a period where freedom of political and cultural expression was seriously curtailed and at times censored. The Jakarta International Film Festival started in 1999, after the fall of Soeharto. In July 2005, funding was approved by the Australia-Indonesia Institute to support master classes between Indonesian and Australian film-makers and to show four Australian documentaries: *Dhakiyarr Versus the King*, a story of reconciliation; the *President Versus David Hicks*, an award winning film seen on SBS, directed by Curtis Levy; *We Have Decided Not to Die*; and *Garuda’s Deadly Upgrade*. The Australia Indonesia-Institute aims include developing relations with Indonesia by the promotion in Australia of a greater understanding of Indonesia and by the promotion in Indonesia of a greater understanding of Australia.*
Foreign Minister Downer visited Indonesia in early December 2005 and was in Jakarta on 6 December. The festival was due to commence on 9 December, but on 8 December, 24 hours before the opening of the festival, the festival director was told by the cultural counsellor to the Australian embassy that funding of $18,000 had been withdrawn from the festival. The reason given was that the four films in question did not conform to the objectives of the Australia Indonesia Institute. I have placed a number of questions on notice to the foreign minister concerning these events. We need to know if his department was responsible for pulling this extraordinary act of default censorship at the eleventh hour.

Despite the films having been approved for broadcast in Indonesia and having been already seen in Australia, and despite the fact that a number of Australian film-makers were already in Jakarta to participate in the program, we witnessed the extraordinary and embarrassing spectacle of government intervention in the program of a film festival of another nation to prevent our own documentary films from being shown.

Perhaps as he landed at the airport the foreign minister decided that the films did not fit within the revised direction of the Australia Indonesia Institute, which has been expanded to include projecting ‘positive images of Australia and Indonesia in each other’s country’. But, more likely, he realised that these films spoke to the record of the Australian government and, like Caesar, he simply took away that which he had the power to grant and left the directors and the film community in the lurch and the festival without a program.

In the meantime, Australians should reflect on the tragic irony of an Australian government body suppressing the showing of films. These films had already been seen by Australians but our neighbours, in a country that has experienced suppression of political and cultural opinion, were denied the opportunity to see them. The reaction in Jakarta and Indonesia was one of incredulity. No other country, to my knowledge, has tied its funding of the festival to film selection. It is urgent that the foreign minister answer these questions. (Time expired)

Clean Up Australia Day

Deakin Electorate: Recycling Centres

Mr BARRESI (Deakin) (9.51 am)—This Sunday is Clean Up Australia Day and a lot of us will be participating, I am sure. We will be assisting our local, urban based or rural and regional groups to be part of a magnificent day, where we express our concern for recycling and for keeping our neighbourhood tidy. But the concepts of recycling and maintaining a good, clean environment do not always attract widespread support. That is because of the location of some of these facilities.

I have spoken in this place before about the Heatherdale Road Action Group in my electorate, who were formed after I brought to their attention the waste transfer station recycling centre being set up in their neighbourhood. Since then, we have continued to have problems, not only with one waste transfer recycling centre but now a second organisation just down the road, which is involved in waste-metal recycling. The metal-waste recycling organisation is called Southern Recycling, and the waste transfer station is called Eastern Recycling. Both organisations continue to cause great angst amongst the residents—residents who, I may say, do go out on Clean Up Australia Day to participate in various activities and make sure their neighbourhood is tidy.
The location of these sites causes a great deal of concern. While the location adjoins the infamous Scoresby Freeway site, it is also across the road from a lot of residents' homes, and the issues of noise, dust and health concerns are very prominent in the public’s mind. Both organisations have been taken to VCAT. Both continue to be accused of breaching EPA and council rules on noise and dust. These organisations need to be mindful that, while there is general community support for the entire concept of recycling and waste transfer stations, their location is very inappropriate. They need to be very mindful of the effect that they are having on the community.

I have called on the Parliamentary Secretary to the Minister for the Environment and Heritage to introduce at the federal level a nationwide code on urban based recycling and waste transfer stations. I am pleased that the parliamentary secretary has agreed to meet with the group and do whatever he can.

Principally, of course, this issue is very much one that lies in the hands of Steve Bracks and the planning regime which he has introduced into the state of Victoria. It must be tightened up on behalf of all the residents. (Time expired)

Multiculturalism

Ms OWENS (Parramatta) (9.54 am)—In question time on Tuesday we saw remarks by the Minister for Health and Ageing that I know will distress many Australians. He made a statement that made it very clear that he believes that, if you are of Greek, Spanish, Vietnamese or Cambodian background, then you are not Australian. This was not an off-the-cuff remark made down at the pub on the spur of the moment after a few beers. He made the remark in parliament in response to a dorothy dixer question from his own side. He came armed with a newspaper clipping that formed the basis of his answer. The answer was prepared. Both the statement and the question were made with forethought.

A sense of belonging, of being valued, is a powerful force. We all know that. We know it in our families and in our workplaces, but it is equally true of our communities and our country. What is going on in this country that our government representatives are saying over and over to large numbers of us: ‘You don’t belong here. You are not really one of us’? How would we expect that message to affect large numbers of us, our neighbours and our work colleagues?

White Australia is dead, and good riddance to it. We will never be ‘white Australia’ again, and it is about time that government members got used to that. We have the world within this country now. All of us can draw out the best from that or we can foster the worst. It is hard enough for people to come to this country to find their way, and it is equally hard for their children. It is a great gift to be raised in two cultures, the culture of their country—and in case anyone on the government side is confused by that, I mean this country—and the culture of their parents. It is a great gift if we welcome it, but, if we use that difference to alienate, we create extraordinary potential for conflict.

It is not our differences that divide us, it is the way we treat each other. Human interaction is the base for all human conflict, and the way we treat each other also creates cohesion in our society. We do not need a government doing its best to divide us and creating bad history between sections of our nation. How many more years are we going to see the ignorant, divisive attitudes of members opposite spewed forth onto the front pages of newspapers, conveniently timed to douse the latest scandal or the latest government failure?
I know that sometime during the next few weeks we will see another announcement by the government of some sort of Australian values training, again sending out a dog whistle that there might be groups lurking in our community that do not share Australian values and that might be trying to divide us. I would like to point out that there is a group, right here in this building, lurking about and trying to divide us. It is called ‘the Howard government’. The people who most desperately need to learn Australian values are members of the government. Let us enrol the Minister for Health and Ageing in a course in Australian values and, while we are at it, the member for Hughes, the member for Indi and the member for Mackellar, all of whom have made outrageous remarks in the last few months, and all of the others who were not outraged by the comments of the Minister for Health and Ageing. If nothing else, it might keep them quiet and out of this place for a while, and that would be a good thing for this country.

Gilmore Electorate

Mrs GASH (Gilmore) (9.57 am)—To some, 10 years is a long time. For me it has been truly an honour and a privilege to serve the community of Gilmore, and the time has just flown by. It seems like only yesterday that the people chose me to represent them in parliament, and I hope I have been worthy of their trust in me. Over time, a sense of family has overtaken me when dealing with many of the issues that have been brought to me. Some I have taken on board personally, and some have affected me very deeply, but in all cases I have tried to apply myself fully to the advancement of their interests and that of the community which we all share.

Do I have any regrets? Absolutely not. I am very grateful, firstly, for having been given the opportunity to be elected to parliament. I am also extremely grateful to the many who have assisted me in carrying out my role as their representative, particularly all my local branches, certainly the community of Gilmore, my staff, the Shoalhaven City Council, the Kiama Municipal Council and the Wingecarribee Shire Council. This is not a job that can be done alone. Whatever success I have had, and whatever kudos I might have earned, has to be shared by my many supporters.

To the people of Gilmore, thank you for supporting me for all these years. I hope I can continue to enjoy your support in the future. I am humbled by the kindness and generosity of spirit that has been extended to me. I could not have asked for more. Voters willing, I look forward to the future years together.

Can I add some of the achievements that the community of Gilmore has achieved. For Main Road 92, thank you to the Minister for Local Government, Territories and Roads, who is sitting here alongside of me. Finally, the road will happen, with construction starting in another few weeks. The University of Wollongong has campuses at Moss Vale and Shoalhaven. We also have a freshwater marine centre. We now have a medical school in the Gilmore electorate. We have aged care facilities that we did not have some 10 years ago. We have services for our veterans that we did not have 10 years ago. We have a young program for cadets and for our youth leaders in the Gilmore electorate. All in all, it has been a wonderful 10 years and I look forward to the years ahead.

The DEPUTY SPEAKER (Hon. IR Causley)—Order! In accordance with sessional order 193 the time for members’ statements has concluded.
MR. LLOYD (Robertson—Minister for Local Government, Territories and Roads) (10.00 am)—I move:

That this bill be now read a second time.

The Maritime Legislation Amendment Bill 2005 makes a number of small but in some cases quite significant changes to four acts, particularly to the Navigation Act. While I do not intend to mention all the amendments contained in this bill, I will make specific reference to a few of them.

A review of the level of penalties imposed by the Lighthouses Act and the Navigation Act has shown that many of the penalties contained in those acts have little or no deterrent effect, as they have not been revised for a considerable period of time. The bill will increase penalties to a more appropriate level.

For example, the current maximum penalty in the Lighthouses Act for damaging a marine navigational aid is only $220. As someone who holds a master class 4, I understand that it is a very severe event and a $220 penalty is really quite ridiculous. The consequences of such damage may be an accident, such as the grounding of a ship which is relying on that aid for its navigation. This in turn may result in major environmental damage and possible loss of life. The bill will provide for a more appropriate and graduated series of offences for damaging a marine navigational aid. If the damage is the result of deliberate conduct, the maximum penalty will be imprisonment for ten years; if the damage is the result of reckless conduct, the maximum penalty will be imprisonment for seven years; if the damage is the result of negligent conduct, the maximum penalty will be a fine of $22,000. A similar approach of providing a graduated series of penalties for each particular offence has been adopted throughout the bill.

Military forces around the world now routinely operate some ships on a charter basis rather than owning the ships. Such ships are not operated any differently to ships that belong to the military forces. An example is the Incat-owned vessel, HMAS Jervis Bay, which was chartered by the Royal Australian Navy and used to ferry people and goods between Australia and East Timor during the East Timor crisis.

Military ships traditionally are not subject to the laws applying to merchant ships. This is recognised in the Navigation Act, which exempts ships belonging to the Defence Force of Australia or to foreign military forces from its application. To recognise modern chartering arrangements, the bill will extend the exemption provision to apply not only to ships belonging to military forces but also to ships operated by military forces.

Ship pilots provide a very important function in advising on the navigation of ships in areas where navigation is hazardous. The bill contains a number of amendments relating to pilotage. Section 186D of the Navigation Act currently provides for the making of regulations relating to pilotage. That regulation-making power is being extended to pilotage providers—that is, the persons or organisations who assign a pilot to a ship. The sorts of matters that may be covered by regulations include the duties of pilotage providers.
The Great Barrier Reef Marine Park Act has requirements for compulsory pilotage in northern areas of the waters of the Great Barrier Reef. There are no requirements for compulsory pilotage in the Navigation Act. The regulation-making power in section 186D is to be further extended to allow regulations to be made declaring areas where pilotage is compulsory.

The master of a ship remains responsible for the ship at all times, even while a pilot is on board or the ship is subject to vessel traffic management arrangements, such as vessel traffic control within a port or other directions from another person not on board the ship.

Amendments to section 410B of the Navigation Act are intended to remove any doubt that, where a ship is subject to compulsory pilotage under an Australian law, the owner and master of the ship are responsible for any loss or damage caused by the ship. The pilot and the pilotage provider are immune from any civil claims for loss or damages that may arise.

This amendment will not mean that pilots will not take due care while they are working as pilots. The amendments do not provide any immunity from prosecution under criminal law. Further, in order to perform the duties of a coastal pilot, a person must be licensed by the Australian Maritime Safety Authority. A pilot’s licence may be cancelled, suspended or restricted in a number of circumstances, including if a pilot has demonstrated incompetence or misconduct relating to the performance of his or her duties as a pilot. A pilot who does not perform his or her duties in a competent manner therefore places his or her means of livelihood at risk.

As well as clarifying the immunity for pilots, the bill inserts a new section 411 into the Navigation Act to specifically provide that the master of a ship is not relieved from responsibility for the conduct and navigation of a ship by reason only of the ship being subject to vessel traffic management arrangements.

Where certain conditions are met, an unlicensed ship may be granted a continuing voyage permit to engage in trade between Australian ports. Subsection 286(4) of the Navigation Act provides that such a permit may be cancelled by the minister, but the minister must have given the master, owner or agent of the ship at least six months notice of his or her intention to cancel the permit.

This provision is being amended to allow a continuing voyage permit to be cancelled in a much shorter time period if the minister considers that such cancellation is in the public interest. The permit holder will be given an opportunity to show cause why the permit should not be cancelled and will be able to apply to the Administrative Appeals Tribunal for the review of a decision to cancel a permit.

While abuse of alcohol or other drugs on ships is not a significant problem, it is important that there be provision to detect any such abuse, as even one crew member of a ship being unable to perform his or her duties may have catastrophic results. The Navigation Act already provides for breath testing to determine blood alcohol content but, because of inconsistency in the use of terms within the act, the necessary associated regulations to determine precisely how breath testing is to occur have not been able to be made. This bill will ensure that terminology is consistent.

The Navigation Act is also being amended to allow for the taking of mouth swabs to enable testing for the presence of drugs.
The last amendment which I will mention is an amendment to the Protection of the Sea (Prevention of Pollution from Ships) Act, which will require Australian chemical tankers to prepare and carry a marine pollution emergency plan for noxious liquid substances. Carriage of such a plan on board a chemical tanker will provide a ready reference for the crew in case of a pollution incident involving hazardous liquids.

The requirement to carry a marine pollution emergency plan for noxious liquid substances is in accordance with the International Convention for the Prevention of Pollution from Ships. Ships are already required to carry similar plans setting out procedures in cases of pollution by oil and the management of shipboard waste.

This bill continues the government’s efforts to enhance Australia’s shipping safety and pollution prevention regimes. I commend the bill to the House and I present the explanatory memorandum.

Mr RIPOLL (Oxley) (10.09 am)—The Maritime Legislation Amendment Bill 2005 makes a significant number of unrelated amendments to four maritime acts. Labor generally welcomes these amendments. Consistent with the Howard government’s approach to Australia’s maritime sector, they do not represent any great embrace of good policy; they do, however, introduce some improvements, particularly with respect to safety and environmental safeguards. For that reason Labor will support the amendments.

The bill amends the Lighthouses Act 1911 to provide for the maintenance of marine navigational aids and higher penalties for damaging aids or failing to report such damage. The bill also makes some amendments to the Navigation Act 1912, which is the principal Commonwealth act relating to the safety of ships. These amendments include revised pilotage provisions to provide for compulsory pilotage in areas specified by regulation; revised provisions relating to the reporting of ship movements; revised provisions relating to alcohol and other drugs and allowing for the taking of mouth swabs to test for alcohol and other drugs; provision of immunity from civil claims for pilots and pilotage providers; abolition of the requirement for six months notice before the minister can cancel a continuing voyage permit; and increased penalties for major offences that pose a threat to life or the environment.

The bill also amends the Protection of the Sea (Prevention of Pollution from Ships) Act 1983. This act implements the International Convention for the Prevention of Pollution from Ships, known as MARPOL. The bill amends the act to require Australian chemical tankers to prepare and carry a noxious liquid substances plan; provide that security paid by the owner or master in the event of a pollution breach must cover the maximum amount of penalties that may be payable by all members of the crew; and clarify that documents that may be served on a ship’s agent include documents that may be served on the owner, the master or any member of the crew.

The Shipping Registration Act facilitates the registration of ships in Australia, grants ships Australian nationality and provides for the registration of mortgages over ships. The bill amends the act to provide that mortgages can be removed from the register at the request of the mortgagee; allow the minister to delegate his or her powers under the act to a staff member of the Australian Maritime Safety Authority; and provide for access to the Australian Register of Ships by electronic means.
That is what the bill will do. Let me now turn to what the bill fails to do, particularly with respect to coastal shipping—a matter raised by the shadow minister for transport, Senator Kerry O’Brien, during debate on this bill in the other place.

Section 286 of the Navigation Act provides that the minister for transport may issue a single-voyage permit or a continuing voyage permit to an unlicensed ship to engage in trade between Australian ports. The minister may do so only if there is no licensed ship available or the service provided by a licensed ship would be inadequate, and the minister is satisfied that it is in the public interest to do so. As already noted, this bill amends the act to remove the requirement for the minister to give six months notice of the intention to cancel a continuing voyage permit.

On 18 July last year the Australian revealed details of an internal audit of the Howard government’s administration of coastal shipping under the Navigation Act. It was obtained under freedom of information provisions and I am sure that it is no surprise that the government failed to release the report of its own initiative. The only way it could be obtained was under freedom of information provisions.

A compliance review of coastal shipping permits was conducted by KPMG for the Department of Transport and Regional Services and completed in October 2004. There has been ample time for the government to tell the public, certainly the maritime public, of the report and its outcomes. The minister knows, even if he fails to admit it, that the review delivered a damning assessment of the Howard government’s performance. The government may well be celebrating 10 years in office, but it has been 10 years wasted in many areas. The review found that the administration of coastal shipping licences and permits for foreign vessels under this government is a shambles. The audit revealed that one in six coastal shipping permits are granted without a signed application form, which, according to KPMG, means:

...the department risks granting a permit based on a bogus or unauthorised application.

Given the climate of national security and fear, everyone would understand that this would be something that the government would not want to overlook. The audit also revealed that inadequate financial controls mean that the government may be unaware of fraud, errors or other irregularities related to licence and permit applications—again just a lack of accountability or transparency or a government that just does not care. The audit report also revealed that poor record keeping means that data relating to more than one in five approved licence and permit applications is ‘absent or incorrect’ and that existing regulations are, in KPMG’s words, ‘out of date’ and ‘do not reflect current operating procedures’.

It is quite a damning report card, an indictment on this government’s lack of action in this area. If that were not enough, it found that the minister’s department had breached the Navigation (Coasting Trade) Regulations Act 1937 and ministerial guidelines on the regulation of coastal shipping by failing to establish whether a licensed ship is available before issuing a permit.

Single and continuous voyage permits are only supposed to be issued when a licensed ship is unavailable and the minister is satisfied that it is in the public interest to do so. It should not be forgotten that different rules apply to unlicensed foreign ships granted single or continuous voyage permits. They are not required to pay their crews Australian wages when trading on the Australian coast. We have seen reports in the past on that. I am particularly referring to the
ships of shame and other problems related to the maritime industry generally. These ships, many of them flag of convenience vessels, can undercut Australian wages and conditions when plying their trade on the Australian coast.

The simple truth is that the Howard government has presided over the near destruction of Australia’s coastal trading fleet while giving a leg up to foreign shippers that, in many cases, use substandard vessels and engage cheap foreign labour at the expense of Australian jobs. The minister has said that the government has addressed deficiencies identified in the audit report. It did take the release of the report under the freedom of information request for the minister to actually acknowledge the shambolic state of coastal shipping administration.

The minister’s department has told the Senate Rural and Regional Affairs and Transport Legislation Committee that the recommendations in the report will be addressed through amendments to the coasting trading regulations. We have not seen those rewritten regulations yet, so we will all be waiting for the minister to act on his promise. I invite the minister to tell us where he is up to and what stage we are at in the process of that taking place.

Labor is also concerned, however, that the changes will have little relationship to the recommendations in the review. At the AusIntermodal 2005 conference in Sydney last year the minister said that there was too much regulation of coastal shipping—obviously, not too much in the sense that it is being done properly. It appears that the minister’s answer is the dilution of the few rules that regulate coastal trading activity. As Senator O’Brien, the shadow minister, has observed, the minister knows he does not have the capacity to enforce coastal trading rules, so he is thinking about getting rid of them altogether.

It is important to understand why the government’s failure to properly administer the cabotage system matters and should matter. First, the lax administration of coastal trading places Australia at a heightened risk of maritime terrorism. The Howard government has been issuing permits in response to unsigned applications. This is not a light point; this is something very serious and something that the government should take note of. That is, the government has risked granting permits based on bogus or unauthorised applications. If you work that through the fear is that, if somebody wanted to perpetrate some act on our nation, this would be a perfect mechanism to carry that out.

It is no secret that the international shipping industry has a dark side to it. During the course of its inquiry into the introduction of a maritime security identification card the Senate Rural and Regional Affairs and Transport Legislation Committee received evidence that:

International Maritime Security agencies accept that Osama Bin Laden owns a fleet of cargo ships all flagged under the “Flag of convenience” system. This system evades taxes, and most other regulated cost but more importantly provides the beneficial owner with the most effective veil of anonymity available in international trade.

There is no more effective veil of anonymity than a blank application form. In Labor’s view, there can be no more effective way to make Australia more vulnerable to terrorist attack than by permitting foreign ships to sail from port to port without even causing them the inconvenience of lodging a signed permit form. Foreign ships authorised to trade on our coast by this government carry oil, chemicals, LPG and other dangerous goods including ammonium nitrate—all chemicals of concern to Australia’s security.

The Australian maritime transport compendium commissioned by the Australian Shipowners Association and published in 2005 tells a telling statistical tale about the growing use of
foreign ships to transport goods around Australian ports. It reveals that, since 1991-92, the number of permits issued to foreign ships has grown by over 325 per cent. In 2003-04, foreign vessels were permitted to carry 27.5 per cent of the Australian interstate and intrastate sea freight trade, up from eight per cent when Labor last held office.

As noted, foreign seafarers are not subject to the same rules that apply to Australian seafarers serving on Australian ships. Not only are foreign seafarers denied Australian pay and conditions but they are not subject to the same security regime as Australian seafarers. This is not just a case about pay and conditions, important as that is—and very much so—but, also very importantly, about international and Australian security. The much-delayed implementation of the maritime security identification card regime does not impose additional requirements on foreign seafarers. Australian truck drivers delivering goods to our ports are going to be subject to more stringent background and identity checking than foreign seafarers sailing from port to port. Imagine the duplicity in that system.

Labor says that the carriage of high-consequence dangerous goods like ammonium nitrate by foreign ships must stop now if Australia is serious about minimising the threat of terrorism. We often hear the government speak of this, its so-called mantra on these issues—some sort of ownership over terrorism issues. Where are the practical acts in very simple bits of legislation that could actually deal with some of these very real threats to Australia?

The Leader of the Opposition, Kim Beazley, can claim much of the credit for raising public awareness about this issue, but the government is not paying much attention. It is clear to just about everyone except those opposite that the safest way to transport high-consequence dangerous goods around Australia is on Australian ships crewed by Australian men and women subject to appropriate security screening—people who are paid appropriately, have the appropriate conditions and will do the job in a safe and secure way.

Secure ships and secure seafarers mean better protection for the Australian community, our ports and our infrastructure. This is not just about keeping dangerous substances out of the hands of terrorists and supporting Australian shippers and maritime workers. It is clear that the increasing carriage of sea freight around our coast by foreign ships—many of them, as we know, flag of convenience vessels subject to minimal regulation—also puts our natural environment at risk. It is a matter of good luck, not good governance, that Australia has not seen a major environmental disaster associated with the carriage of chemical or petroleum products by a ‘ship of shame’.

The Howard government’s neglect of shipping policy threatens our economy, our national security and our natural environment. It is time that the Howard government ceased abusing the cabotage system. It should be enforcing the rules, not just talking about walking away from them altogether.

There are other things the government should also be doing to secure our maritime borders. A critical issue is the enforcement of crew and manifest advance reporting. The government has a 48-hour rule in place but does not adequately enforce it. It is past time that it did so and took seriously its own regulations, its own legislation.

Labor supports this bill, but it does not support the Howard government’s failed administration of maritime policy. I now 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 condemn the Government for:

(a) failing to uphold Australia’s national interest by adopting anti-Australian shipping policies that favour foreign vessels and crew despite the risk to national security, Australian jobs and the natural environment;

(b) failing to ensure adequate security in relation to the shipping of dangerous goods and hazardous material, including explosives precursors such as ammonium nitrate; and

(c) failing to ensure ships comply with the requirement to provide details of crew and cargo forty-eight hours before arrival.”

The DEPUTY SPEAKER (Hon. IR Causley)—Is the amendment seconded?

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

The DEPUTY SPEAKER—The original question was that this bill be now read a second time. To this the honourable member for Oxley has moved as amendment that all words after ‘That’ be omitted with a view to substituting other words. The question now is that the words proposed to be omitted stand part of the question.

Mr CAMERON THOMPSON (Blair) (10.25 am)—It is a pleasure to speak on the Maritime Legislation Amendment Bill 2005, which amends four acts. It amends the Lighthouses Act 1911, the Navigation Act 1912, the Protection of the Sea (Prevention of Pollution from Ships) Act 1983 and the Shipping Registration Act 1981. The government has an ongoing and very vital role in the administration of our marine environment, whether it be simply the safe passage of ships or something else. In a variety of ways we seek to preserve and conserve our marine environment; we seek to preserve and conserve our marine species; and we seek to regulate the pollution of the sea, not only by ships but also by man, by land based industries. We have a range of measures which we undertake to protect our marine environment. The Maritime Legislation Amendment Bill 2005 is just one part of the broad range of measures for which the government has a responsibility—to ensure that we are up to date; we are reforming where reform is necessary and appropriate; we are where we are required to be; and, where prudence would dictate, we are always innovative in the way we set about making our response.

In this particular piece of legislation the priority in the changes is to make our shipping system safer, for crews as well as for the environment. And we do not have to limit it there. There are people who are engaged in maritime rescues—whose responsibility is maritime rescues—for whom life would also be safer if the systems of policing safety in our sea lanes were maintained in an up-to-date fashion and if every piece of effective technology and innovation in law can be used to make our monitoring systems, our reportage systems and our systems of preparedness far more effective.

Changes are wanted by industry and by shipping stakeholders, to address outdated safety and environmental protection legislation that currently stands. Amending the four acts will strengthen shipping safety and maritime environmental protection. It will also update the penalties for offences. In every walk of life there are laws that need to be followed. In this area, over the years, there has been a sorry record of abuse, where out of sight is out of mind, in the view of many shipping operators. The examples of pollution of the sea by ships read like a litany of disasters over the years. The changes and the new insistence, by governments worldwide, on stronger protection measures are welcomed.
The member for Oxley made a whole series of comments. He harped on about issues such as safety, security and the environment, but it all came back to one factor: the intention of the Labor Party to protect elements of the shipping industry that are the preserve of the Labor Party’s union bosses and their power. We saw that in relation to the waterfront dispute and the efforts by the government to introduce a far more effective waterfront regime.

It is no wonder that shipping in Australia was flatlining under the Labor Party. You could not resuscitate the Australian shipping industry with a Packer whacker under Labor. It was about as dead as it could possibly get. The government’s changes in relation to waterfront reform, in particular—being the initial response of the government—introduced new opportunities for Australians to be involved in the shipping industry far more effectively, competitively and efficiently—not only allowing Australian industry to be involved in shipping but allowing Australian industry to benefit through shipping.

Every cent that was being wasted on featherbedded union conditions on the waterfront was a cent that was lost to productive capacity for Australia, for a competitive stance for Australia. It is an absolute travesty that for many years the Labor Party refused to act on the waterfront. It claimed that it was impossible to gain efficiencies on the waterfront and that the repeated calls from all sectors of Australian industry for an improved and more efficient waterfront just could not be delivered.

We saw a series of measures by the Labor Party—inquiries and pseudo reforms that did nothing more than simply rearrange the deck chairs on the Titanic—give a new sinecure to another group of overpaid people already sucking the lifeblood out of the waterfront of Australia. We are now in a position where, thanks to the courageous reforms undertaken by former minister Peter Reith and supported wholeheartedly by members of the government, the container rates on the waterfronts around Australia have ratcheted up dramatically. There is a new sense of optimism that our shipping capabilities are world class. Our ability to process cargoes through the wharves is up to scratch with anything existing in the world—in fact, we can beat that. The apathy of Labor members when confronted with the power of their union mates over the waterfront was an absolute national shame and a disgrace. They did not put the nation first. They put first the dodgy claims of people who really were just trying to maintain a sinecure against the great weight of the whole of the Australian national interest at that time.

We now see the rhetoric in relation to this bill from the member for Oxley. He progresses on and says, ‘We expect the same sorts of sinecures to be extended to our union mates in relation to shipping.’ I said earlier that the reforms we made on the waterfront invigorated Australian industry and opened up new possibilities in the minds of Australian industry for the development of shipping. I think we have seen that. We have seen advances being made in Australian shipping companies. Patrick, Toll Holdings and those sorts of companies have made great strides in recent times—and we have seen only the very start of it. Over time the new understanding that we as a nation can process cargo efficiently—and the opportunities that flow from that—is starting to make its way into the broader community. An awareness of that connectivity is something that has only just begun to dawn on many in Australian industries, because for many years we were so moribund, so completely dead in the water in every respect—Australia, a land girt by sea, girt by union domination and girt by cosy union mates who insist on sucking the lifeblood out of our shipping industry.
Now the member for Oxley and his mates want to extend that in relation to on board ship. It is necessary for us to provide increased flexibility for Australian producers and to ensure that there is security—and that is what this legislation is all about. To say that every time there is a ship load of ammonium nitrate—a fertiliser that Australian farmers require; they continue to need to use it, despite the problems caused by it being able to be used as an explosive—special vessels need to be manned by ALP union mates to ply the seas of Australia is a ridiculous incursion into what is an important piece of the lifeblood of a large part of Australian industry: the ready availability of effective fertiliser for cropping.

The fact is that we are seeing alternatives to ammonium nitrate. As time goes by, we will see a trend to those more effective and safer types of fertiliser on Australian farms. Therefore, this question of an ALP fleet of union buddies plying the seas and carrying ammonium nitrate can remain where it is—a fantasy in the minds of the members opposite.

In this legislation we also look at the question of lighthouses. Lighthouses are the traffic lights of the sea: they identify the lanes on which vessels travel. It is important that we continue to provide more and more innovative forms of navigation. The lighthouses, despite the innovations of GPS, omega navigation and various other forms of very accurate satellite guided systems, remain a very important part of the network. We need to protect against consequential loss of and damage to life and property, the economic impact and the environmental impact of ships running aground. Even if they do not split apart and spill their cargoes, there can still be horrendous damage caused by ships running aground.

I recall a vessel running aground on the reef north of Cairns some time ago. It cut a huge swathe through the coral. Even though the vessel remained intact and was able to be taken off the reef and continue on its way, the damage to the coral was quite significant. A huge area was flattened and destroyed. We have to bear in mind that protection of the Great Barrier Reef is an important necessity for us in Queensland, to maintain our incredibly important tourism industry. We need to focus on the reef and we need to be able to provide support for it.

Around lighthouses, there is an increasing problem with trespassing and vandalism. We require greater deterrence. Improved penalties are needed; strengthened penalties are needed. You cannot have a situation where, because of vandalism and trespass in the lighthouse grounds, the functionality of the lighthouse is lost and ships are placed at risk. Penalties are currently quite low, particularly when the consequences are considered.

If you damage or disable a navigation aid, you place at risk the environment, property and lives. The change of penalty from $200 to 10 years imprisonment for intentionally engaging in conduct that destroys or damages a marine navigational aid is welcomed. That penalty is comparable with the penalty for intentionally damaging Commonwealth property under the Crimes Act. Damage to a lighthouse that could cause a cataclysm on the sea is quite obviously potentially a heck of a lot more damaging and more dangerous than damage to other Commonwealth property in many cases. Trespass is also made consistent under this legislation, with trespass on Commonwealth property made consistent in relation to the extent of the penalties that are applicable.

Under the Navigation Act we increase penalties for people falsely representing themselves as qualified or people who perform duties as a master, officer or seaman without the proper qualifications. In Queensland we know all about people presenting themselves without the correct qualifications. We have seen the consequences of that in the health system. We have
seen people maimed and injured because the Queensland health system was unable to simply check a website and determine whether someone was or was not properly qualified.

Ms Hall—Mr Deputy Speaker, I would like to ask the member for Blair what connection the health—

The DEPUTY SPEAKER (Hon. DGH Adams)—Order! The honourable member has a question for you. Are you willing to take the question?

Mr CAMERON THOMPSON—Certainly.

Ms Hall—I would like to ask the member for Blair what connection the Queensland health system has to the piece of legislation that we are debating today. If he could please make that connection, I would be most grateful.

Mr CAMERON THOMPSON—I was referring to the increased penalties under the Navigation Act as proposed under this legislation for people who falsely represent themselves as qualified. I was explaining quite clearly to the chamber the consequences of people misrepresenting themselves as being fully qualified and that this has caused an absolute disaster in the Queensland health system. If we have the same thing happening with the people driving our ships around the country then we have a serious problem.

Mr Martin Ferguson—Does that include using your personal staff for your own child-minding activities?

Mr CAMERON THOMPSON—The mischievous member over there is making allegations that he knows nothing about. A new section of the legislation creates an offence for both master and owner of a regulated ship that operates without a pilot in a compulsory pilotage area. Compulsory pilotage will only be imposed in areas that are hazardous to navigation. These areas are often of significant environmental value. Compulsory pilotage reduces the possibility of an accident but also aims to prevent pollution occurring in the case of an accident. The penalty for an offence under this section is set at the same level as offences under the Great Barrier Reef Marine Park Act. The legislation also increases penalties to a level where they are an effective deterrent for failure to produce certificates or documents or failing to comply with the requirement of the Maritime Safety Authority to take a ship into dock. The legislation is aimed at decreasing the economic advantage in running a substandard or unseaworthy ship. Defects on these vessels—

Mr Slipper—Mr Deputy Speaker, could I ask the member a question?

Mr CAMERON THOMPSON—Certainly. I am popular!

Mr Slipper—My question to the honourable member for Blair is: in the event that an accident were to occur because of the unsafe pilotage or navigation of a ship, is the Queensland health system sufficiently robust under the Beattie Labor government to handle any possible casualties from such an accident?

The DEPUTY SPEAKER—Order! The honourable member for Fisher’s intervention is not acceptable to the chair.

Ms Hall—Mr Deputy Speaker, I rise on a point of order. That is outside the gamut of this legislation. I do not believe that the member is qualified to answer that question.

Mr Slipper—Mr Deputy Speaker, on the point of order: the honourable member was talking about maritime safety and I was talking about the impact of a lapse of maritime safety and
casualties that could occur as a result. I wondered whether the Queensland health system had the wherewithal to manage those casualties. I would think there is a definite causal connection between the bill and my quite reasonable question.

Ms Hall—Further to the point of order, once again I reiterate that this is outside the gamut of this legislation, and I do not believe that the member can be asked to answer that question.

The DEPUTY SPEAKER—I understand your point of order. The honourable member for Blair will come to the bill before the committee.

Mr CAMERON THOMPSON—Mr Deputy Speaker, I am out of time. (Time expired)

Mr MARTIN FERGUSON (Batman) (10.45 am)—I rise to make some comments on the provisions of the Maritime Legislation Amendment Bill 2005 and, in doing so, to reject out of hand the un-Australian remarks by the previous speaker, the member for Blair, in which he clearly indicated to the House, without reservation, that he would sooner have people sometimes operating on illegal visas and not paying taxes taking Australian jobs—remarks which, so far as I am concerned, would be unacceptable to the great majority of his constituents in Blair.

As has been said, this bill contains a number of technical amendments to a series of acts which go to the very heart of an important industry in Australia, the maritime industry. As we all know, Australia has a proud maritime history. Much of our contemporary history is based on the brave men and women who took to the seas and settled this island nation. In recent times we have also relied on seafarers in times of conflict. Unlike the member for Blair, I take this opportunity to pay tribute to Australian merchant seafarers who have defended this nation. They were prepared to put their lives on the line for the safety and welfare of Australia. To have those people denigrated by the member for Blair is unacceptable to them, their families and their communities. We also recently commemorated victory in the Pacific, honouring the end of World War II. It is worth mentioning the contribution made by the merchant navy in that conflict.

Today, as a large isolated island nation, we also accept that Australia remains heavily reliant on the shipping industry, both domestically and internationally. In the middle of a resources boom, which is really driving the Australian economy, we need to stop to think just how dependent we are on the seafaring industry.

That takes me to the question of our living standards, which are continuing to improve. Disposable incomes grow and globalisation brings about global trading in more and more commodities, which is to the benefit of Australia. Effectively, that means that the worldwide freight task is growing at an almost exponential rate. Just think about the fact that 20 per cent of Australian exports are energy exports. When we consider the expected growth in the demand for energy of over 100 per cent worldwide between now and 2030, we can start to appreciate the importance of the shipping industry to Australia’s economic future.

In addition, we have to acknowledge that our domestic freight task is predicted to double over the next decade. The Australian shipping industry needs to be well placed to take some of that load up. There are obviously certain commodities which have to be moved by sea, for a range of reasons—such as safety, national security, amenity and transport efficiency. In addition, there are significant defence and national interest reasons for supporting the Australian shipping industry.
Unlike the Howard government, the opposition is proud to take the view that Australia can be both a nation of shippers and a shipping nation. We can actually do both, and it is about time we started to pull our weight on both fronts. As reflected in the second reading amendment moved by the member for Oxley, the opposition therefore condemns the government for its wholesale abuse of the single and continuous voyage permit provisions of the Navigation Act. We believe that this action has been deliberately designed to undermine Australian jobs and, in doing so, to undermine the viability of the Australian merchant fleet.

There is clear evidence of contrived unavailability of Australian ships, which has unfairly favoured foreign ships with foreign labour that is cheap. There are serious questions about visa entitlements and approval, and about working under substandard conditions of employment that are unacceptable in terms of international conventions with respect to the rights of seafarers. The outcome of this has been the loss of a maritime skills base in Australia; the opening up of the Australian coastline to potential environmental disaster; and ongoing, major security threats, which was also touched on by the member for Oxley, with express reference to the movement of ammonium nitrate.

Just as we do not support Third World wages or substandard working conditions in other industries—although there seems to be a view that that is what should occur in Australia, based on the comments of the member for Blair—we should not accept them, I believe, in the transport sector. We as a nation should not accept that practice in interstate shipping, the same way in which we should not accept it in the manufacturing industry, the resource sector, nursing, teaching or any other sector of employment in Australia.

We suggest that the threats posed by foreign shipping on the Australian coastline should not be underestimated, because they actively represent serious threats to our nation’s wellbeing, prosperity and security. They include defence, security, marine environment, the future of our tourism industry—a huge export earner and job engine in Australia—border protection and the all-important issue of how we train Australians in maritime skills.

The companies involved—and let us be square about this—and their workforces have no allegiance to Australia and its safety and security. They pay no taxes in this country and are effectively guest labour in the Australian transport system to the detriment of Australia’s welfare and to the detriment of future job opportunities for Australians.

Unlike the Howard government, the opposition went to the last election with a commitment to this very important industry because we thought it was not only about moving freight but also about our security and the international struggle against the threat of terrorism. The opposition has long held the view that domestic shipping can and should play its important role in the Australian transport industry. The opposition’s maritime policy reaffirmed our support for the domestic industry and the national interest benefits that accrue from having a viable industry using Australian ships with Australian crews working under Australian conditions.

Labor also recognises the value of the cabotage provisions of the Navigation Act and the need to restore these provisions to their original intent as temporary licences for ships to operate on the Australian coast when Australian shipping vessels are not available. Unfortunately, the government’s response to this crisis in the Australian shipping industry is to stick its head in the sand and tinker around the edges.
The provisions of this bill include, firstly, amendments to the Lighthouse Act 1911 to provide for the maintenance of marine navigational aids and higher penalties for damaging aids or failing to report such damage; and, secondly, a range of amendments to the Navigation Act, which is the principal Commonwealth act relating to the safety of ships. These include revising pilotage provisions to provide for compulsory pilotage in areas specified by regulation, which is exceptionally important; revising provisions relating to the reporting of ship movements; revising provisions relating to alcohol and other drugs and allowing for the taking of mouth swabs to test for alcohol and other drugs; providing immunity from civil claims for pilots and pilotage providers; removing the requirement of six months notice before the minister can cancel a continuing voyage permit; and increasing penalties for other major offences that pose a threat to life or the environment.

They also include amendments to the Protection of the Sea (Prevention of Pollution from Ships) Act 1981, which implements the International Convention for the Prevention of Pollution from Ships, known as MARPOL. These amendments require Australian chemical tankers to prepare and carry a noxious liquid substances plan—which is exceptionally important for a variety of reasons—and provide that security where paid by the owner or master in the event of a pollution breach must cover the maximum amount of penalties that may be payable by all members of the crew. Why should the Australian taxpayer bear that cost? The amendments also include clarifying that documents that may be served on the ship’s agent include documents—

Mr Slipper—I was wondering if the honourable member opposite would take a question.

The DEPUTY SPEAKER (Hon. DGH Adams)—Will the honourable member for Batman take the intervention?

Mr MARTIN FERGUSON—Yes.

Mr Slipper—My question to the honourable member for Batman is: does he agree with many commentators who have said that unrealistic wages and conditions on Australian ships have priced the Australian coastal shipping trade out of viability? In other words, we do not have the coastal shipping trade we should because of unrealistic conditions won by unions in that area.

Mr MARTIN FERGUSON—Poor old member for Fisher! No wonder he has never made it to the front bench to be a minister; it is reflected in the nature of his ignorant question. The issue of wages and conditions of Australian seafarers is not a barrier to the merchant services in Australia. They are highly efficient, which is really our competitive advantage internationally. It comes back to government policy. It is not a question of wages and conditions of employment; it is about what is right for Australia. We have a government that is prepared to not only export jobs but, in doing so, based on false suggestions of unfair wages and conditions of employment, also place Australia at serious risk in terms of the nature of the people on some of these foreign vessels. Some of the vessels have historically been ships of shame, which potentially endangers the Australian environment, especially the state of Queensland, where the member for Fisher comes from, with respect to the importance of the tourism industry. With issues such as ammonium nitrate, why would you have foreign crews not paying taxes and with serious questions about their visa entitlements on the Australian coastline at a time of major international threat from terrorist organisations? It comes back to good government policy. It is about time the member for Fisher fronted up to his national responsibilities and
what is in Australia’s national interests, rather than playing petty politics, as reflected in the ignorance of his own party and the fact that they have no vision for the future of Australia.

In that context, this bill, importantly—and this is why we support aspects of this bill—clarifies that documents that may be served on a ship’s agent include documents that may be served on the owner, the master or any member of the crew. Amendments also go to the Shipping Registration Act to provide that mortgages can be removed from the register at the request of the mortgagee, allowing the minister to delegate his or her powers under the act to a staff member of the Australian Maritime Safety Authority and provide for access to the Australian Register of Ships by electronic means. It is all about efficiency and control in terms of accountability of the Australian shipping industry, which is exceptionally important, and foreign vessels.

I also indicate to the House that there are a series of technical legislative amendments that do not recognise the value of the Australian industry and the need for a full-scale review of the current cabotage provisions, taking into account all relevant factors, not simply cost and the ideological obsession, as clearly represented by the member for Fisher’s question just a moment ago. It is for this reason that the opposition, while supporting the bill, has moved the second reading amendment standing in the name of the member for Oxley. As has been indicated, the second reading amendment goes to a number of important issues such as the wholesale destruction of the industry and the consequences for Australian jobs, skills, marine security et cetera.

In closing, I want to raise a couple of remarks about what I believe is an important recent breakthrough, which goes to the role of the International Labour Organisation. I would like to touch on one of the issues contained in the opposition’s second reading amendment—that of the carriage of high-consequence and dangerous goods on the Australian coastline, notably ammonium nitrate. It is well known that terrorist groups such as al-Qaeda and its affiliates have used ammonium nitrate as part of their deadly campaigns, which can be a major threat to Australia. On that note, we need only think of the 1993 World Trade Centre bombing, the Oklahoma bombing of 1995 and the attacks on embassies in the 1990s. These are serious threats and the Australian government should be vigilant about doing everything possible to remove any potential threat in the movement of ammonium nitrate.

I believe the government has made no attempt to restrict the carriage of these cargoes, despite all of its security rhetoric. On the contrary, since 1 July 2005, at least five single voyage permits have been issued for the carriage of ammonium nitrate between Australian ports. That represents 10,800 tonnes of this highly dangerous fertiliser carried under five permits. The opposition contend that the carriage of dangerous goods such as ammonium nitrate by foreign ships must stop now. We believe that the safest way to transport ammonium nitrate and other fertilisers around Australia that are vital to Australian rural industry is on Australian ships with Australian crews. When a secure ship with a secure crew sails out of a secure port into another port, the exposure of risk is minimised.

That also takes me to the issue of a new maritime convention. I draw to the attention of the House a maritime convention of 2006. In doing so, I call on the Australian government and all state and territory governments to, through a proper consultative process, including industry, urgently ratify this new convention. The convention, appropriately, includes a bill of rights for
seafarers, which was adopted on 23 February this year by the International Labour Organisation with a vote of 314 in favour, none against and just four abstentions.

I also remind the House, as a former member of the ILO governing body, that this is not a workers’ parliament; this is an international organisation that has put a huge amount of effort, following consultations with industry over an extended period, into rationalising the existing conventions that have long existed with respect to the operation of the maritime industry. The ILO historically has always prided itself on a particular commitment to the maritime industry. The tripartite process with respect to the development of maritime conventions, including representatives of government and equal representatives of employers and workers, has been one of the most hardworking groups in the ILO and has endeavoured to make the ILO relevant in the 21st century. It is to be commended on all the work over recent years that has gone into the development of this convention, which received overwhelming support in February this year.

I suggest to the House that the overwhelming vote of support, including that of Australia—and I am delighted with the role of the Australian government in voting for this convention—illustrates the importance of this convention as a single instrument for the international regulation of safety, training and pollution in the maritime industry. We should not forget that it is the culmination, in terms of dedication and effort, of five years of intensive negotiations and it has the strong backing of maritime employers in Australia—absolute commitment from employers.

Mr MARTIN FERGUSON—Prior to the suspension of the Main Committee I was referring to the importance of the maritime convention 2006.

A division having been called in the House of Representatives—

Sitting suspended from 11.02 am to 11.15 am

Mr MARTIN FERGUSON—Before the division in the House, I was making my final remarks on the maritime convention 2006, indicating to the chamber that this convention has important ramifications not just for the exploited seafarers of flag of convenience vessels but also for Australian seafarers. In the international environment it is regarded as a benchmark for other global industries, reflecting the success of the ILO in cleaning up what were outdated conventions across a range of aspects of the seafarers industry. As the ILO Director-General said, it is a landmark development for working conditions. The convention sets minimum requirements for seafarers to work on a ship, including hours of work and rest, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection. It is what any decent society ought to provide to all workers irrespective of the country they embark from. It is also exceptionally important because, unlike previous conventions, this maritime convention of 2006 has teeth with legally binding standards which can be enforced. I commend the convention to the House.

In conclusion, I reiterate my support for the second reading amendment moved by the member for Oxley but also request that the minister, in response, advise the House of the government’s intention as to how it progresses the ratification of the maritime convention 2006 following its ratification by the ILO on 23 February with the support of Australian employers,
the shipping industry, workers’ representatives and the government. I commend the convention to the House and merely state in conclusion that it is a major breakthrough with respect to the nature of the work in the ILO in one of the foundation industries that the ILO has been paying attention to since its origins. It also reflects the capacity of the modern ILO to front up to renewing and reviewing outdated conventions to reflect the nature of the 21st century.

Ms OWENS (Parramatta) (11.46 am)—I speak today on the Maritime Legislation Amendment Bill 2005 because at the core of the Australian maritime industry are issues that affect all Australians, whether they be land-dwelling or seafaring—those issues being protection of our coastal environment, national security along our coastlines and in our ports, the working conditions of Australians and others who work in this country and Australia’s capacity in the long run to compete globally by building a strong, efficient workforce. The bill is specific to the maritime industry, but the essence of the bill pertains to all Australians because it speaks to the rights of all people in their workplace—or, rather, in relation to the four issues that I spoke of, it fails to speak to them: it fails to speak adequately to the security of our nation, the protection of our coastal environment and working conditions of Australians and those from overseas who work in our coastal waters.

The bill amends a suite of maritime legislation, four acts in all, relating to general maritime navigation, ship safety and the impact of shipping on the marine environment as well as various administrative matters. These are all important concerns, and that is why the Australian Labor Party will be supporting the bill, albeit with a second reading amendment. While Labor does support the bill, it does not support the Howard government’s failed administration of maritime policy. The member for Oxley has moved a second reading amendment:

That all words after ‘That’ be omitted with a view to substituting the following words:

‘whilst not declining to give the bill a second reading, the House condemns the government for:

(a) failing to uphold Australia’s national interest by adopting anti-Australian shipping policies that favour foreign vessels and crew despite the risk to national security, Australian jobs and the natural environment;

(b) failing to ensure adequate security in relation to the shipping of dangerous goods and hazardous material, including explosives precursors such as ammonium nitrate; and

(c) failing to ensure ships comply with the requirement to provide details of crew and cargo forty-eight hours before arrival.’

In respect of these major issues in our maritime industry, the government falls short yet again. We on this side of the House condemn the Howard government for failing to uphold Australia’s national interest by adopting these anti-Australian shipping policies that favour foreign vessels. We on this side of the chamber are committed to the Australian maritime industry. The member for Blair in his earlier speech raved on for quite some time about the Labor Party’s support of what he called our union mates in the maritime industry. Let me say for the record that the Labor Party absolutely support the Australian workers in the maritime industry, as they deserve to be supported. Call them our union mates if you like, because they are union members, but basically at their heart they are Australian workers and they deserve the support not just of the opposition but of the government.

Labor acknowledges the real and vital role Australia’s maritime industry and its workers have played in national security and the role that it should still be playing in defence and economic prosperity. We also acknowledge that the Howard government’s policy of supporting
cheap foreign shipping serves to threaten Australia’s national security, risk our coastal environment, facilitate the human rights abuse of foreign crews and significantly sacrifice jobs for Australian workers. The Maritime Union of Australia and their global equivalent, the International Transport Workers Federation, have been lobbying tirelessly for tighter security, safety and environmental controls on ships entering Australian waters—and quite rightly so. The Maritime Legislation Amendment Bill 2005 does little to alleviate their deep and very real concerns about the poor security on flags of convenience ships, as they are known, which leave Australia vulnerable to terrorism and environmental disaster.

As members of this place will know, the practice of flags of convenience shipping is one where an open register allows shipping companies to register their vessels under a foreign flag. In other words, a ship can fly the flag of a country to which they have no connection. One in five of the world’s ships are registered under this system. This registration can even be obtained over the internet, which likely contributes to the poor and substandard state these ships are reported to be in, seeing that it seems that safety and seaworthy testing can be easily evaded.

Flags of convenience ships fly the flags of other countries because they are cheap. They have low registration costs and low or even no taxes. But they also have poor standards and cheap crews, crews that have little access to a union, crews that are forced to work in appalling conditions—on leaking ships with a lack of food, low wages, physical abuse and little or no training. Often they work with written instruction manuals in a language they do not speak. Flags of convenience shipping represents more than half of the worldwide ship losses. It also represents hundreds of lives lost in shipping accidents. Flags of convenience ships are also responsible for the majority of major maritime collisions, resulting in pollution, the death of marine life and the destruction of our natural environment. It is luck rather than good management that our coastal waters remain pristine from these major environmental disasters.

This bill does little to abate the human rights abuses that these flags of convenience ships of shame harbour. The bill does little to protect the rights of workers whose very lives are often at stake in these coffin ships. The bill does little to help assign responsibility to flags of convenience rust buckets as they trail their leaking oil slicks across our seas.

The Australian coastline stretches 36,700 kilometres. Its ocean territories cover more than 12 million square kilometres and cover three oceans. Our nearest neighbour is 200 kilometres to the north; then Timor, 640 kilometres; and New Zealand, 1,900 kilometres. Australia is the sixth largest nation in the world, after Russia, Canada, China, the United States and Brazil, and is the only one of the top six that is completely surrounded by water. Perhaps that is why the Howard government’s lack of concern over the flags of convenience shipping phenomenon cuts so deep. We are the largest island nation in the world, and we have relied on our maritime industry over our history. We have had a strong, viable maritime industry, which is seriously degraded after 10 years of the Howard government’s inaction. We have the longest coastline in the world. We have the most to protect. We have the most need to protect our vulnerable country by providing secure entry to our nation from the oceans that surround us. We have the most need to service our vast country via our vast waters and the most need to supply proper and safe working conditions for Australian seafarers and maritime workers. On that point, we have the most need to supply jobs to Australian seafarers and maritime workers—full stop. I will talk more about that later, more on the impact that the Howard government

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favouring foreign vessels and crews has had on the number of Australian workers employed at sea in Australian waters.

The irony is that many of the flags of convenience ships plying our waters, bringing with them potential environmental hazards and certain human rights abuses, are flagged to landlocked countries. At least 40 countries, many of them developing countries, rent out their flags to shipping companies of any nationality. The country opening a flagging register does not have to be situated on the coast. Indeed, landlocked Bolivia is one of the top 10 maritime countries in the world. Australia, the largest island, with one of the longest coastlines in the world, is not anywhere near the top of the table. In fact, we are significantly far down.

Responsibility is the real problem with this issue. The Maritime Legislation Amendment Bill 2005 addresses culpability to the extent of an increase in offence provisions but it does not assist in determining just who it is that is culpable. Our world famous and world heritage listed Great Barrier Reef stretches for more than 2,300 kilometres along the north-eastern coast. If, for example, a shipping accident occurs off the coast in Queensland resulting not only perhaps in the tragic loss of human life but most certainly in oil spilled, with this flag of convenience ship flagged in Bolivia, owned in Switzerland, crewed by labour from Cambodia and captained by a Greek national, who is responsible for the environmental damage and where does the buck stop? Let me tell you it certainly does stop with the Australian government, which has failed to act on this issue for many years.

Australia has one of the most coast-dwelling populations in the world. More than 80 per cent of us live within 100 kilometres of the coast, and the majority of us live very close to our thriving ports. The impact such an environmental disaster occurring in Australian waters would have on the Australian way of life is worth noting. To keep with the example of the Great Barrier Reef, tourism is now the largest commercial activity in the Great Barrier Reef Marine Park, generating over $1 billion per annum. The marine tourism industry is a major contributor to the Australian economy. This could be said about any part of our coastline: the pristine waters off the coast of Western Australia that attract people to places like Port Hedland in the north of the state and Esperance on the southern coast; the spectacular seas of the Eyre Peninsula off the Great Australian Bight; and, a little closer to my electorate, the famous waves of Bondi beach.

Being a coast-dwelling population, it would be natural to conclude that there would be a fair proportion of Australians employed as seafarers, employed on the ships that move cargo and the like up and down our 36,700 kilometres of coastline. Sadly, this is no longer the case. We live in the reality of the outrageous situation where the number of people employed in seafaring jobs in our coastal waters is being negatively affected by the presence of cheap labour in the form of foreign crews of flags of convenience vessels. The Howard government has not sufficiently amended maritime legislation to protect the rights of Australian workers. In fact, over 10 years its policies have decimated the Australian coastal fleet and put thousands of Australian seafarers out of work.

The Maritime Legislation Amendment Bill deals in part with amendment to the Navigation Act 1912. However, it fails with respect to flags of convenience shipping by not sufficiently amending legislation to stamp out the abuse of single and continuing voyage permits. Labor has long held the view that the unfettered granting of permits to foreign ships represents a security risk to Australia also. If the ships entering our waters and our ports are flags of con-
venience vessels, which many are, then Australian authorities still have no way of tracing the
owners of these ships and very little way of knowing who is actually aboard. There is no real
background check undertaken on just who it is that constitutes these crews of foreign workers.
This leaves our nation well and truly open to terrorism. Shipping in Australia is still the best
way to transport dangerous materials from one side of the country to the other; it is much
safer for us all than land transport. Because of that, it is important that we have a secure mar-
time system where we know who is staffing the ships, who owns the ships and that the ships
in our waters have some responsibility to this country.

Another of Labor’s long held views is that the Howard government does not care about the
Australian worker and certainly does not care about the maritime worker. The Howard gov-
ernment’s favouring of foreign crewed vessels can only come at the expense of Australian
workers, and what an expensive price to pay. We are the largest country in the entire world
that is completely surrounded by water, a country reliant on a vibrant shipping industry, and
yet our maritime legislation allows for the cheapest, exploited foreign crews to regularly work
our waters and service our country in favour of Australian workers. I am not just talking here
about ships that come in from other countries, bring in their cargo, move up and down the
coast delivering it and leave. I am talking here about ships that ply the seas between our major
cities on a regular basis. They are here in our coastal waters on an almost permanent basis,
leaving only when they have to.

Where an Australian worker is denied a job, an Australian family is also denied an income.
There is no doubt about the ability of our seafarers and maritime workers. Of course skilled
Australian workers would be highly sought after as crews, but at what cost? We cannot ac-
cept, in any of our industries, either on land or at sea, Australian workers being forced into a
position for jobs on the wage rates of our large neighbours such as China.

We hear quite often in this parliament that wages need to be cheaper. We see now the gov-
ernment allowing visas to bring unskilled people into this country to do apprenticeships and
do Australians out of jobs. But we have also seen for many years a government that is pre-
pared to see the Australian transport industry staffed within our own waters by the cheapest,
most exploited labour in the world—again, Australia competing in its own country, in its own
waters, on the basis of the incredibly low rates of Chinese and Indonesian workers.

It is unimaginable that that would happen on land. It is unimaginable, if we were talking
about our rail system or our trucking system, that a foreign company would be able to move
into Australia with its trucks and its staff from overseas and pay what in Australia would be
called slave labour rates without any real conditions. I fail to see why, if it is not allowed on
the mainland, it is allowed in our coastal waters—again, not just the ships that are coming in
from other countries but the ships that work here on a regular basis. That is what they do: they
go from Brisbane to Sydney to Melbourne to Adelaide to Perth and back—over and over
again—with the cheapest, most exploited labour in the world.

Australia may be an island nation but a fantasy island we are not. This is the real world. In
the real world the bottom line is punctuated absolutely by the dollar sign. In the real world,
deresperate underdeveloped nations full of desperate people risk their lives and limbs on rust
buckets, coffin ships and ships of shame. But that does not mean that Australia has to be part
of a world that allows people to work under those conditions. We need a strong voice against
any circumstances in which people are treated that way. We are against child labour. We

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equally should be against this unbelievable exploitation of some of the most desperate people in the world, who spend their lives on ships that can sink at any time, with no conditions and for little wages, if any.

Yet in Australia, with this government, that is tolerated. And it is tolerated in order to weaken the very ‘union mates’ that the member for Blair accused us of supporting. There can be no doubt that it is part of the government strategy to weaken the maritime unions by ensuring that their workers are more and more on the dole. There is no doubt that, in their attacks on the unions, they are prepared to see Australian workers literally cast aside, as we have seen in the industrial relations legislation that they introduced late last year.

There is no doubt that this is a government with a fixed ideology that is so full of hatred for unions that it is prepared to sacrifice Australian workers in its battle to win a war. This government is against a union that is of course a group of workers in the first place. I am astonished by the capacity of this government to refer to unions as though they are not workers. The next thing we will hear is it talking about the police force as though they are not the police. When you are talking about the union, you are talking about a group of workers who have come together and formed a collective in order to bargain for their rights.

Working on a ship in Australian waters should be treated no differently from working on the mainland. If it is not good enough on the Australian mainland to bring in foreign workers from overseas at slave rates, then it is not good enough to do it in Australian waters—and it is just not good enough. Remember that Australia’s ocean territory covers more than 12 million square kilometres and takes in three oceans. We should be one of the great seafaring nations of the world. That is what we could have been. Ten years after the Howard government, we are nowhere near that. Our fleet has been decimated—and, along with our fleet, so has our shipbuilding capacity. If you knock out the Australian fleet, you knock out industries that support it.

This bill does some good things but it just does not go far enough. This government has presided over a deliberate weakening of the Australian maritime industry and a decimation of the Australian fleet, and it is about time it acted to turn that around.

Ms GRIERSON (Newcastle) (12.05 pm)—I rise to speak on the Maritime Legislation Amendment Bill 2005 and support Labor’s second reading amendment as moved by the member for Oxley, which condemns the Howard government for:

(a) failing to uphold Australia’s national interest by adopting anti-Australian shipping policies that favour foreign vessels and crew despite the risk to national security, Australian jobs and the natural environment;

(b) failing to ensure adequate security in relation to the shipping of dangerous goods and hazardous material, including explosives precursors such as ammonium nitrate; and

(c) failing to ensure ships comply with the requirement to provide details of crew and cargo forty-eight hours before arrival.

This bill makes disparate amendments to four separate pieces of maritime legislation. Amendments to the first piece of legislation, the Lighthouses Act 1911, provide for the maintenance of maritime navigational aids and put in place higher penalties for damaging aids or failing to report such damage. Labor generally welcomes these amendments. The bulk of the amendments contained within the bill, however, relate to the Navigation Act 1912, which is the principal Commonwealth act relating to shipping movement and safety, crewing matters,
wrecks and salvage. Among other things, the amendments revise pilotage provisions to pro-
vide for compulsory pilotage in areas specified and set out in the regulations; revise the provi-
sions relating to the reporting of ship movements; revise provisions relating to alcohol and
other drugs and allow for the taking of mouth swabs to test for alcohol and other drugs; pro-
vide immunity for civil claims for pilots and pilotage providers; remove the requirement for
six months notice before the minister can cancel a continuing voyage permit; and increase
penalties for major offences that pose a threat to life or the environment.

The bill also amends the Protection of the Sea (Prevention of Pollution from Ships) Act.
That act implements the International Convention for the Prevention of Pollution from Ships,
known as MARPOL. The bill amends the act to require Australian chemical tankers to prepare
and carry a noxious liquid substance plan and to provide that security paid by the owner or
master in the event of a pollution breach must cover the maximum amount of penalty that
may be payable by all members of the crew. It also seeks to clarify that documents that may
be served on a ship’s agent include documents that may be served on the owner, the master or
any member of the crew.

The fourth act that this bill amends is the Shipping Registration Act. This act facilitates
the registration of ships in Australia—dear, we wish that would happen. It grants ships Australian
nationality and provides for the registration of mortgages over ships. The bill before us
amends the act to provide that mortgages can be removed from the register at the request of
the mortgagee. It allows the minister to delegate his or her powers under the act to a staff
member of the Australian Maritime Safety Authority and provides for access to the Australian
Register of Ships via electronic means. It sounds very complex. Having navigated these dis-
parate amendments across four separate acts, the Australian people could be forgiven for feel-
ing just a little at sea.

There is certainly very little sense of a common theme to these amendments, other than
their focus on increasing penalties in a bid to represent a more appropriate deterrent and/or
punishment. We have to wonder just what the government has been doing for 10 years.

The bulk of the bill is, however, devoted to updating various aspects of the Navigation Act.
It is this act and these amendments that I wish to focus on. Curiously, the amendments appear
to be unrelated to recommendations made by the government’s own review of the Navigation
Act in 2000. Indeed, this review is not mentioned in either the explanatory memorandum or
the second reading speech. Again, you have to ask: what was the point of the government’s
Navigation Act review in the first place? Regrettably, the Australian people are long used to
this government commissioning reviews and inquiries that appear to go nowhere and unfortu-
nately achieve very little.

After 10 long years, this Howard government still has no policy to support Australian ship-
ping, let alone support maritime workers and crews that visit in these ships. Instead, we have
a government that remains hell-bent on issuing single and continuous voyage permits to for-
eign ships, many of which are flag of convenience vessels that use substandard vessels and
engage cheap foreign labour. I always take the opportunity to praise a former member from
my region, the Hon. Peter Morris, who did so much to reveal the ships of shame and contin-
uues to be a champion for better maritime activity and regulation.

In talking about these flag of convenience vessels, I see that there are staff from depart-
ments here and I urge them to go and visit a ship that has a foreign crew and that perhaps has
been flagged in some way as a ship of concern. Having done so, I can only tell you that, looking in the eyes of Burmese crew, all I could see was fear. It is not a nice experience. You know they are being exploited. Just sit with a Greek master who speaks no English until suddenly you say something and he breaks into English and speaks to you. You know that honesty is not extended. I do recommend that all members of the coalition take an opportunity to visit some of the ships that ply our waters.

It is also worth noting the decision made last Friday by the ILO, the International Labour Organisation, to adopt a new maritime convention, best known as the ‘seafarers bill of rights’, which will protect the world’s 1.2 million seafarers employed in the global shipping industry. It requires a response from this government. Significantly, the seafarers bill of rights has the tripartite support of unions, governments and shipowners, and I congratulate Paddy Crumlin, the MUA National Secretary and vice-chairperson of the workers group maritime session at the ILO, on the central role he played in this landmark decision. I look forward to the Australian government ratifying this convention as soon as possible and applying it in full. This is the least we can do to help stop the terrible exploitation to which ships’ crews are too often subjected.

Let us also look at this government’s track record when it comes to using foreign ships to transport goods around Australian ports. The latest Australian maritime transport compendium, commissioned by the Australian Shipowners Association, lays open the Howard government’s complete lack of support for an Australian shipping industry, as it maps the rapidly growing use of foreign ships to move goods between our ports. It reveals that since the 1991-92 year the number of permits issued to foreign ships has grown by over 325 per cent. In 2003-04, which is the last full year subject to the report, foreign vessels were permitted to carry 27.5 per cent of the Australian interstate and intrastate sea freight trade, up from eight per cent when Labor last held office.

Significantly, foreign seafarers are not subject, as has been pointed out in this debate, to the same rules as Australian seafarers serving on Australian ships. Not only are they denied Australian pay and working conditions and the protections that they bring but also they are not subject to the same security regime as Australian seafarers. As a person who has now been involved in two aviation security inquiries, I see an absolute lack of the same commitment to maritime security by the Howard government. I can think of no greater threat to our national security than this lax administration of foreign ships in the Australian coastal trade. Despite the government’s fanfare surrounding the soon to be implemented maritime security identification card regime, this regime imposes no additional requirements on foreign seafarers. Indeed, truck drivers delivering goods to our ports will be subject to much more stringent background and identity checking than foreign seafarers. So much for, ‘We’ll control who comes to this country.’

The extent to which the Howard government has mismanaged coastal shipping permits was finally revealed in a report last year in the Australian newspaper. This report detailed the findings of an internal audit conducted by KPMG for the Department of Transport and Regional Services, DOTARS. Not surprisingly, the Australian was forced to use freedom of information laws to obtain a copy of that internal audit, which the Howard government had steadfastly refused to release. This compliance review of coastal shipping permits was completed in October 2004. It delivered a damning assessment of the government’s performance, finding
that the administration of coastal shipping licences and permits for foreign vessels was a complete mess. The audit revealed that one in six coastal shipping permits is granted without a signed application form, so the government runs a high risk of issuing permits based on bogus or unauthorised applications. This audit also revealed that inadequate financial controls mean that the government may be unaware of fraud, errors or other irregularities related to the licence and permit applications and that poor record keeping means that data relating to one in five approved licences and permit applications is either ‘absent or incomplete’.

Even more damning, however, is the fact that DOTARS was found to have breached the navigational coastal trade regulations and ministerial guidelines on the regulation of coastal shipping by failing to establish if a licensed ship is available before issuing a permit. The current Navigation Act provides that the minister for transport may issue a single voyage permit or continuous voyage permit to an unlicensed vessel to engage in trade between Australian ports. However, a permit may only be issued if there is no licensed ship available or the service provided by the licensed ships is inadequate and the minister is satisfied that it is in the public interest to do so. Our successive ministers have been very easily satisfied.

But a massive 325 per cent increase in the number of permits issued to foreign ships under this government’s watch is ample evidence of the ongoing failure of successive ministers to ensure compliance with the act and its regulations. At the same time that the Howard government have presided over a rapidly dwindling Australian coastal trade fleet, they have continued to prop up foreign shipping interests by allowing substandard vessels, crewed with cheap foreign labour, to have seemingly unfettered access to trade between Australian ports. The ability to move from port to port without the inconvenience of having to lodge a signed permit form must seem like a gift from the maritime gods to unscrupulous operators—and there are many of them. That these ships traverse our ports while sometimes carrying dangerous goods, including explosives, seems not to worry the government too much either.

As the member for Newcastle, I am fortunate to have one of Australia’s busiest and most efficient ports in my electorate. Last financial year, trade through the Port of Newcastle set a new record, with 83.5 million tonnes of cargo worth more than $7 billion. So we do take our maritime trade very seriously. The biggest trade item, of course, was coal, which accounted for 93 per cent of the total trade throughput—a figure that maintains Newcastle’s position as the world’s leading coal export port.

But coal is not the only commodity that passes through the Port of Newcastle. Last September, an Antiguan-registered and Ukrainian- and Bulgarian-crewed vessel—it gets complicated, doesn’t it?—called Pancaldo loaded 3,000 tonnes of ammonium nitrate, a potential explosive, in Newcastle, bound for Gladstone, after being granted a single voyage permit to trade on the Australian coast.

Ammonium nitrate is widely used in agriculture and in mining, but of course it is also used by terrorists. When mixed with fuel oil, used to power ships, it can create a bomb big enough to take out a port city like the city of Newcastle. Ammonium nitrate was used in the 1993 bombing of the World Trade Centre and in attacks on US embassies in Africa in the 1990s. In 2004, more than 11,000 tonnes of ammonium nitrate were carried on the Australian coastline by foreign ships operating under permits with foreign crews. And the amount of ammonium nitrate imported into Australia in the last five years has tripled.
I must also point out that a crane broke in the incident at Newcastle, which I have mentioned. It was a very worrying incident. The equipment on the ship was faulty, possibly from poor maintenance and neglect. The dropping of a load like that into a ship—which, obviously, can have fuel oil lying around—was potentially of great concern to the people of Newcastle.

It is now increasingly apparent that Australian authorities have no way of checking the bona fides of these foreign crews. Labor argues that the carriage of high-consequence dangerous goods like ammonium nitrate by foreign ships must stop now if Australia is serious about minimising the threat of terrorism. It is clear to everyone—except, it seems, the Howard government—that the safest way to transport high-consequence dangerous goods around Australia is on Australian ships crewed by Australian men and women, subject to appropriate and rigorous security screening. It is bad enough that the government have facilitated an explosion in the number of continuous voyage permits issued for foreign ships, but it is even worse that they leave Australia vulnerable because they are unable or unwilling to regulate coastal trade according to the rules.

Significantly, multinational companies like BHP Billiton are light years ahead of the Howard government in terms of understanding those risks and the long-term costs associated with the increased use of unlicensed foreign ships trading along our coastline. At a meeting with BHP Billiton in Melbourne recently, they stated that they refuse to use flag of convenience vessels to ply their trade along the West Australian coast. As far as BHP are concerned, it is just not worth the risk. The Australian government should take note.

In the absence of leadership from the Australian government, port users and operators have got on with the business of ensuring security in Australian ports. The port of Newcastle is growing rapidly. With several new infrastructure projects coming on line, this growth will continue.

On top of record coal exports and trade through the port, the port has recently gained national recognition for its whole-of-port approach to the implementation of its maritime security plan. Last November Newcastle port was named the inaugural winner of the innovation in security category at the 2005 Australian shipping and transport awards.

This achievement deserves special mention as it reflects the collaborative approach taken by port users—an approach that unfortunately we see very infrequently with the government. That collaborative approach in the port of Newcastle includes the Maritime Union of Australia, to ensure the ongoing security of our port under the leadership of the Newcastle Port Corporation.

We talked about pilotage. I must acknowledge Adsteam and its recent invitation. I was able to sponsor a new tug in the harbour of Newcastle. I am feeling very maternal about that tug now. I look forward to its long career.

In Newcastle we have a well established and effective port users group as well as a seafarers welfare committee that meets regularly. As a member of these organisations, the port corporation knows the benefits of collaboration across the industry. It understands that the success of any security plan depends on the goodwill and attitudes of all people associated with the industry. The establishment of any risk culture or security culture does, of course, involve people. Certainly all port users and operators need to be involved.
Contrary to the Howard government’s approach to doing business on the waterfront—it has always seemed to adopt divide and rule tactics, complete with accessories such as balaclavas and Rottweilers—the collaborative approach taken by the Newcastle Port Corporation has proven to be highly effective. It is indicative of the way we do maritime business in Newcastle. The approach continues to serve us well, and it is especially pleasing to see it being recognised on the national stage.

Effective collaboration between all port users and operators meant that recently, when the port of Newcastle was temporarily obstructed as a result of a protest by Greenpeace activists, the port corporation, in conjunction with the police, was able to act swiftly and fairly to maintain port operations. This was something of a test run for maritime security in our port. To everyone’s credit, no-one was hurt, the matter was resolved quickly, and the port was able to maintain operations throughout the whole period.

Labor has often outlined the things that this government should do to secure our maritime borders. The first concerns the enforcement of crew and manifest advance warning. The government has a 48-hour rule in place which means that Australian ports should be notified of a ship’s manifest and crew 48 hours prior to the vessel docking, but it does not adequately enforce even this rule, and identification remains a great issue.

Some of the amendments will support crews and workers in the maritime industry. That is terribly important. I would like to acknowledge that in the last six months in Newcastle there have been three deaths of some amazing maritime leaders from the union movement—John Brennan, Bill Bodenham and Tom Potter. I was able to attend two of the funerals. The funeral of John Brennan, who was originally the leader of the Seamens Union and subsequently a veteran of the MUA, was a history lesson in maritime security. It certainly showed that, without that sort of commitment, conditions for crews and others who work in the maritime industry would never have improved. I pay tribute to the people who have improved the conditions for all Australian maritime workers and who have always been committed to improving the conditions for crews of foreign vessels.

In the last term of parliament, I assisted a Pacific island crew who had not been paid their entitlements over periods of years. They got another payment out of that little bit of pressure, but they still did not get full payment. I think that to date they still have not got full payment.

I again say that it is time the Australian government showed leadership in this area—not just a bit of bandaiding in terms of legislation but a real commitment to the ILO convention and improvement of our maritime security and our maritime industry in a way that brings some dignity and pride to this nation.

Mr SAWFORD (Port Adelaide) (12.24 pm)—I realise that I am only going to begin this speech on the Maritime Legislation Amendment Bill 2005 and will have to continue it at some other time. Two things motivate me to speak on this legislation. One is a family and friend connection with the merchant navy and the Australian Navy that goes back 150 years in this country and the stories of World War II, in particular, but also World War I, and the need for a merchant navy for any nation that is serious about security. The second is an event that happened in the state of the member opposite, the member for Moore, in the early 1990s, up in the north-west. We were up there on a caucus visit to Woodside Petroleum. We were having a look at shipping and industry at that particular time. We went down and saw a vessel—a huge bulk carrier—tied up at the wharf. I remember the vessel; it was huge and in very poor
shape. I remember that we spoke to the captain of that ship. You could see the fear in his eyes. Three or four days later—I think maybe four days later—that ship disappeared off the face of the earth never to be heard of again. They are common stories about what happens on the Australian coast.

Labor supports the Australian shipping industry and the seafarers and other workers involved in this industry. This bill makes various amendments to acts relating to the shipping industry, and Labor supports them all. In fact, Labor would like to see the government do a lot more—a hell of a lot more. We want it acknowledged that the government’s ‘low cost at any cost’ approach to industry management has seriously harmed what was one of our great industries and institutions. We would like the government to acknowledge also that it must develop a shipping industry policy and rebuild the industry before it is too late.

The United Kingdom at one stage followed the foolhardy policies of the Howard government. They have now remedied that. None of our allies have the silly policies that we do or have shown disregard for security in their nation by abandoning their own merchant navy. That is what this government has done. When those opposite get up and talk about security in this nation, they are joking; they are not serious. Any stories from World War II will make you realise you that you cannot defend this country—or supply military personnel in another place—unless you have a merchant navy. Recent incidents in East Timor showed quite clearly that we could not supply our own personnel because we had no effective merchant navy.

The truth is that in this decade of the Howard government being in power, the government has shown but scant interest in the fortunes of the industry and the welfare of the workers who rely on the industry’s strength. The results of that lack of interest are that the industry is ailing and jobs have been and continue to be lost. But there are far more important factors than even those, important though they be. This is an especially strange and shameful approach by the government of a country with one of the world’s longest coastlines. The shipping industry in Australia should be a very strong one. Coastal shipping presents a viable and relatively safe alternative to road transport—and, if measured sensibly, a cost effective option as well. A healthy coastal shipping industry would also be of great benefit to many regional centres and the people who live and work there.

With our lengthy coastline and with a history since European settlement which is intricately and inevitably interwoven with all things maritime, Australia has until recent years been a significant player in global maritime issues. Unfortunately, the government has failed to support and promote the industry. As a consequence, the Australian shipping industry is no longer considered a significant player at international level, let alone on a national level. Under the Howard government, Australia has virtually ceased to be an active participant in international organisations like the International Maritime Organisation. It has also ceased to be at the leading edge of maritime policy development and reform. It is the lack of leadership from the federal government that has caused Australia’s reputation in the international shipping industry to be in such decline.

One of the consequences of the government’s failure to support the nation’s shipping industry is that our national security is put at unnecessary risk. The government, as I said, seems to have forgotten the invaluable role played by the merchant navy in the protection of our shores during World War II and, I repeat, the difficulties in East Timor in very recent times. A strong shipping industry will provide a bulwark against modern-day threats to our national security.
On the other hand, an industry weakened by government inactivity and lack of interest simply cannot play such a role.

The member for Newcastle referred to revelations last year about flag of convenience ships carrying ammonium nitrate along our coast. That issue demonstrates this weakness. The ship, flagged in Antigua and with an unvetted foreign crew, carried the highly dangerous cargo of ammonium nitrate from Newcastle to Gladstone. I seek leave to continue my remarks when the debate is resumed.

Leave granted; debate adjourned.

ADJOURNMENT

Mr NEVILLE (Hinkler) (12.30 pm)—I move:

That the Main Committee do now adjourn.

Private Health Insurance

Ms GEORGE (Throsby) (12.30 pm)—I take this opportunity in parliament today to raise concerns that have been expressed to my office by numerous constituents about the impact of increased private health insurance costs on their household budgets. I put this concern in the context that, back in 2001, the Howard government promised that it would keep private health insurance affordable and put downward pressure on premiums. As we know, it is another broken commitment, for in the period since then we have seen premiums rise on an annual basis. This year there has been a 5.86 per cent increase; last year, there was an average increase of eight per cent; in 2004, 7½ per cent; and in 2003, 7.4 per cent—increases well above the rate of inflation and increases which suggest to me and the constituents I represent that the government is not exercising enough scrutiny over the costs and profit levels of a number of health industry funds.

When you look at the increases in aggregate, since 2001 the overall increase in premiums has been an astounding 39 per cent. For some funds, the increases have been much higher. Let me give you an example that came to my attention last year. Many of my constituents reported to the office that fund increases under the NIB fund were on average 17.3 per cent at a time when the government was claiming an average increase of just under eight per cent. So the figures have been deliberately obfuscated. When the minister talks about average increases, you can be sure that the 5.68 per cent average increase that he talks about for this year will translate into much higher increases in a number of funds.

I thought these exorbitant increases were worth pursuing with the Private Health Insurance Ombudsman on behalf of the people who wrote to me. I took the matters up with the Private Health Insurance Ombudsman but no redress was offered. So I want to make the point that average increases do not tell the true story about the impact of the changes on household budgets. Further to that, many constituents report increases in gap fees. It is no wonder that, in a sample survey that I did in my electorate, over 60 per cent of the respondents told me that they believed they were not receiving value for money from their health fund.

So it is the case that Australians are paying more and more each year but getting less from their private health insurance coverage. You have to ask the question: why is it that that industry, which is subsidised by taxpayers to the tune of $3 billion a year, cannot even come up with a standard product that covers all the costs of patients when they use a private hospital?
With regard to the round of increases that will apply from 1 April, I have already had a number of constituents contact me. I want to put on the public record a submission made by one of my constituents, Mrs Storey, who does not mind that I refer to her particular circumstance. She says:

As a pensioner who has kept up private health insurance, and at a great cost—over $2000 per year, now to find these health insurance companies again want to increase the contributions we make, at the rate of 6% is now going to put the cover we now have, right out of our reach and the increased contributions difficult.

Rightfully, we should pull out of the fund due to the costs, plus costs for returns, as it becomes difficult to keep this up, but as you know, Mr Howard has it in such a way that if you require medical/hospital treatment/surgery and you do not have private health insurance, you wait for the public system to become available and in the mean time you suffer pain and agony and whatever else one goes through.

I think it is greatly unfair that in this day and age with the difficulties the communities around us are suffering and the high costs of everything the government continually allows these high increases with little to no increase in wages/pensions or how these people are going to cope with yet another increase.

I think the words of Mrs Storey reflect the exasperation that many people in my electorate are experiencing. There is no doubt that the increases projected from 1 April this year will in many cases be much larger than the six per cent average increase that is quoted by the minister. These increases continue to be a breach of government commitments and are putting enormous pressure on household budgets and affecting in particular those with the least capacity to pay and the large number of pensioners whom I represent in the electorate of Throsby.

McPherson Electorate: Springbrook

Mrs MAY (McPherson) (12.35 pm)—I recently had the opportunity to join in with the Springbrook community at the official dedication of the Springbrook Centenary Parklands and book launch of North from Cobargo, the history of the Springbrook settlement, which was written by Robin Smith and edited by Robert Longhurst. And what a celebration—the rain stopped, the sun shone, the band played and the tight-knit community and special guests came together as one on this very special day.

Mr Slipper—Did you arrange the weather?

Mrs MAY—I certainly did! The year 2006 will be a year that will be long remembered by Springbrook residents as a time of celebration and acknowledgment of the contributions of the families who shaped the character of the mountain over the past 100 years. Last week’s dedication and book launch was just one of the celebrations planned for this year. There are a host of events planned for the remainder of the year—cricket matches, concerts with Normie Rowe and John Williamson, an art exhibition, a ball and a bush dance. These are wonderful opportunities for the local community to come together as one. It is truly going to be a happy 100th birthday for Springbrook.

Councillor Ted Shepherd paid tribute to the families who shaped the mountain. Ray Cavanough, the President of the Springbrook Mountain Community Association, spoke about the importance of the centenary and what the mountain and the community meant to him and his wife, Di. The commemoration of the parklands was celebrated with the unveiling of a plaque, and I would like to put on record the words on the plaque:

MAIN COMMITTEE
This area of parkland was named to commemorate the centenary of the establishment of Springbrook. The first group of settlers arrived in Springbrook in 1906, having travelled from the New South Wales south coast and making their way up the Springbrook plateau by a rough bush track.

This followed a survey by AH Burbank, which resulted in the land originally gazetted as timber reserves, being offered for selection under the terms of the special agricultural selections acts 1901 to 1904. The area was originally named Springwood. However, this became confused with Springwood in the Blue Mountains and the term Springbrook was adopted in 1907.

The early settlers spent many backbreaking years clearing tracts of dense rainforest to create the dairy pastures that were to later become the lifeblood of this mountain community.

This park commemorates 100 years of settlement and recognises the contribution made by these Gold Coast pioneers and their descendants in creating the unique and enviable community of modern day Springbrook.

This short history of Springbrook on the plaque will ensure that the evolution of Springbrook and its name will not be forgotten: the plaque will be a long-time reminder of the past and the early pioneers. The Gold Coast City council and, in particular, Councillor Ted Shepherd were instrumental in ensuring that the book North from Cobargo was published. Robin Smith’s grandson, Rod Campbell, addressed the gathering on stories told by Robin about the mountain and the process that Robin went through in writing the book and what it meant to him. The stories were fascinating—truly inspiring—about a community that is still strong and very tight-knit even today. There was a magnificent display of memorabilia in the Springbrook Community Hall and of course a very large cake to cut, which was enjoyed by all who attended the special ceremony.

There are many people involved with the centenary celebrations. In fact, there is a committee of dedicated people who are organising the events and doing the fundraising to ensure the events are a success. Some of those people are John Craufurd, Anne McInnes, Anne Butler, Barbara Eldred, Graham and Patricia Hardy, Don Weir, Malcolm McInnes, Lynne Head-Weir, Pam Hall and Barbara Dungavell—so many people who are giving so much to ensure the success of the centenary celebrations. Jane and Colin Crisp have produced a visitors guide to Springbrook, an illustrated guide to Springbrook’s parks, walks and wildlife. This book is Jane and Colin’s contribution to the centenary.

There is no doubt that Springbrook is a very special part of the world; it is a very special part of my electorate and a place I do not visit often enough, but the people who make up this community always make me feel very welcome, and I was delighted to celebrate this special commemorative day with so many of them. I look forward to reading the book North from Cobargo and learning more about the history of the mountain, the early pioneers, the families who came to the mountain and who stayed and built a prosperous and special community under the tall, majestic trees which provided food and shelter in the beginning. To all the people on the mountain, to the centenary committee and to the Springbrook Mountain Community Association, my best wishes to you all for a wonderful 2006 centenary celebration.

National Heroes

Mr SAWFORD (Port Adelaide) (12.40 pm)—History and tradition are important. They are important for political parties, they are important for the remembrance of our national heroes and they are important for planning our future. I could be provocative here and talk about pre-
selections and how the going rate for preselection seems to be about $250,000, but I will leave that for another time.

I want to talk about the remembrance of our national heroes and about planning for our future. If I asked the chamber, ‘Who is the Father of the Royal Australian Navy?’ could anyone tell me who it is?

Mr Slipper—Brendan Nelson?

Mr SAWFORD—A silly response from the member for Fisher, but of course you would expect that. It is a man called Sir William Rooke Creswell. He came to this country in the 1850s, and he took command of the South Australian colonial ship Protector. Of course that was at the time when Australia was very fearful of being invaded by the Russians and built forts all around the coastline. Two of those forts are in my electorate—Fort Glanville and Fort Largs. One is now a historic museum and the other is a police academy.

In the period after Federation, we had naval ships here but they were under the command of the Royal Navy. William Rooke Creswell managed, against the wishes of the Royal Navy, to amalgamate those forces. He convinced the British authorities to do so, and so began the Royal Australian Navy.

You would have thought someone of that merit would be appropriately remembered in this country and you would think they would be appropriately remembered in perhaps my electorate of Port Adelaide, where he commanded that ship, the colonial ship Protector, which served in the Boxer Rebellion and in the First World War. I think it was scuttled off the coast of Queensland, and it is an absolute tragedy that that occurred. But we do not remember him. We just do not remember him.

Mr Slipper—At least he got a knighthood.

Mr SAWFORD—He did, but we do not actually remember him. That he is unknown to the overwhelming number of members of this House and to most Australians is also somewhat of a tragedy.

If I said to this chamber, ‘Who is the bravest person who ever put on an Australian naval or aircraft uniform?’ who would you say it was?

Mr Neville—The lad who went down firing a machine gun.

Mr SAWFORD—Exactly: in Sattleberg in New Guinea—Lieutenant Thomas Currie Derrick. He grew up in my electorate, in Exmouth Road in Glanville in South Australia. He lived during the Depression. Like my father—he did not go with my father—in those times, when unemployment was so bad, as 14-year-olds they all got on their bikes and rode up to the Riverland. My father did the same. Derrick worked on fruit blocks, while my father went as far as Wentworth and worked on some of those old paddle steamers.

Mr Slipper—How far was that?

Mr SAWFORD—It was in the 1930s.

Mr Slipper—How many kilometres away?

Mr SAWFORD—He worked on a fruit block at Berri. He came back and joined the 2nd/48th, probably the most famous battalion in World War II, and served in the Middle East. He should have been given, according to everybody, a Victoria Cross. He was not. He was given a significant award but not a Victoria Cross. He won the Victoria Cross in Sattleberg in
New Guinea. In the latter part of the war, he was asked by the authorities to come home, but he wanted to be with his mates.

His nickname was ‘Diver’. Here is another man whom we remember with some nondescript street and a nondescript little park—I opened the park and there is a memorial there—but he is the greatest military person in this country. We have not effectively remembered him. We have an infrastructure project beginning at the moment, an important one, with a battle of the bridges—open bridges over the Port River. I suggested to the community that we name the bridges the Diver Derrick bridges and give him a permanent memorial, but unfortunately that is a battle still to be won.

Councillor Steve Dickson

Mr SLIPPER (Fisher) (12.45 pm)—Most honourable members would be aware of the problems in Queensland as a result of the systemic failures of the Beattie Labor government. Thankfully, the Liberal Party—and, I imagine, the National Party—have some excellent candidates with proven track records who will run in the next state election. One of them is Councillor Steve Dickson, in the state seat of Kawana in my federal electorate of Fisher. Kawana needs a swing of less than two per cent to be lost by Labor, and Steve is an excellent candidate, an excellent councillor who at the council elections receives a vote of between 60 and 70 per cent.

He is a current councillor for the Maroochy Shire Council and he has proven in that challenging position that he has what it takes to represent the real needs of people, and he has the nous to be able to make good decisions that have positive outcomes. He is currently chairman of planning at the Maroochy Shire Council, and the wisdom he has displayed in that position has meant that for the first time in a long time the planning department is running smoothly and efficiently, without the controversies that have dogged it in past years. Well done, Steve Dickson; you have proven yourself to be a leader who gets things done. Queensland needs people like Steve Dickson, who has the capacity to be a state cabinet minister as part of a resurgent Liberal Party which hopefully will defeat the Beattie Labor government at the next poll.

As a result of the Labor government, on the Sunshine Coast we have a terrible situation with regard to the hospital system. Waiting lists have blown out; doctors are resigning left, right and centre; emergency wards are struggling to cope; and morale is at an all-time low. Steve is well aware of the problem and has been doing his bit to lobby the state government to get its act together. There has been a massive mix-up with regard to the new hospital that was pledged to the people of the Sunshine Coast, to be located beside our excellent University of the Sunshine Coast at Sippy Downs. Despite promises that it was going ahead, the state Labor government has now claimed it never promised anything and the site is under dispute. This is another vivid example of a state Labor government that has totally dropped the ball on health, a government that is happy to mislead the people of the Sunshine Coast on the issue.

Only half an hour’s drive south is the debacle that is the Caboolture Hospital. Just a few hundred metres from the front of this hospital an accident took place, but as there is no emergency department they had to send the people involved off to Brisbane. It is interesting to see how quiet the state Labor member Chris Cummins has been on this and other issues. He always wants to be in the media—he is a clone of Peter Beattie—but certainly, with respect to health on the Sunshine Coast, he has dropped the ball and he has hidden. Thankfully, the peo-
people of Kawana have a fantastic candidate in Steve Dickson, who has proven that he is a tireless worker and can actually get the job done.

There are many other unacceptable problems in Queensland and on the Sunshine Coast. The state government, which received every last cent of the GST, is not funding infrastructure requirements adequately to keep up with our booming population, although it has belatedly decided to start spending money on the Maroochy River Bridge duplication, perhaps to try to placate a community which is increasingly suspicious and sceptical about the promises made by the Beattie Labor government.

Steve Dickson has vast experience in a wide range of businesses, from holiday and tourist accommodation management to vineyard establishment and management. He is concerned about the most important natural resource in Australia, water, and as such is a member of the Caloundra-Maroochy Water Supply Board and the south-east Queensland wastewater commission. He has been involved and is involved in numerous community organisations, including the Buderim War Memorial Community Association, the Sunshine Coast Dog Obedience Club, Neighbourhood Watch, Buderim Wanderers Soccer Club, the Suncoast Hinterland Softball Association, Chancellor State College P&C Association, the Sunshine Coast Hockey Association and the Sippy Downs and District Community Association.

Steve has achieved a lot of success during his time as an elected representative on the Maroochy Shire Council. He is very well respected, well known and well recognised in the community. He is someone to whom people can go with a problem and he will help solve that problem. He is a proven leader, has the capacity to play a very important role in a future conservative government in Queensland and will hopefully consign Chris Cummins to the retirement benches.

I want to commend Steve Dickson for his successes in the past and for his very strong track record of making a positive difference to his community. I wish him well in his future endeavour to become the Liberal member for the state seat of Kawana in a coalition government, hopefully to be elected after the next poll.

The Beattie Labor government is completely on the nose. They have dropped the ball. They have got another by-election coming up—and we hope they lose that—but with people like Steve Dickson and other excellent candidates coming forward to compete in the election on behalf of the Liberal and National parties, Mr Beattie has every reason to be greatly concerned. His serial failures are now coming home to roost.

Work Choices Legislation

Mr MELHAM (Banks) (12.50 pm)—Last week I met with representatives from the trucking industry at Revesby in my electorate. Not surprisingly, they are concerned and, indeed, angry over the new industrial relations laws. Further, I understand that the government is intending to propose an independent contractors bill. This would continue the government’s attack on individual unions and industries, which commenced with its outrageous harassment of the building industry.

In a media release on 30 March 2005, the minister called for submissions on proposals to protect independent contractors. My discussions with independent contractors in NSW indicate that the reverse is true. I have been advised that in New South Wales owner-drivers stand to lose their rights to an independent, cost-effective industrial relations system. This is a sys-
tem that sets minimum standards through contract determinations, which protects owners’
goodwill and allows for effective dispute resolution.

Recently I tabled a petition which states that the impact of the proposed legislation will be
as follows: no access to the Industrial Relations Commission to settle disputes, no contract
determination to set rates and conditions, no contract or carriage tribunal to hear claims of
goodwill, no ability to review unfair contracts and no ability to reinstate unfairly terminated
contracts.

I was advised by these contractors that the proposed legislation would cause thousands of
drivers to lose millions of dollars as well as undermine safety considerations. The vast major-
ity of owner-drivers are single-vehicle operators who perform work exclusively for a single
transport operator. For this reason, owner-drivers are highly dependent on those with whom
they contract. This dependence leads to inequality of bargaining power and potential for ex-
plotation. This situation can only get worse if the minister proceeds with the foreshadowed
legislation.

Currently in New South Wales, there is regulatory protection for owner-drivers which
minimises exploitation and at the same time does not hinder competition. This ensures that
owner-drivers are at least able to cover their costs and maintain safety standards. While this
interdependence has a positive side, there are downsides as well—for instance, the driver
must be available for that operator, therefore rendering the driver unable to take on work for
other operators. The drivers have little negotiating power in terms of price. They take the
price they are given.

Owner-drivers are in a uniquely vulnerable position as independent contractors. In New
South Wales that vulnerability has been acknowledged and addressed, resulting in a net posi-
tive result for both drivers and contractors. This was premised on the fact that, while owner-
drivers were independent, they were in a position of potential vulnerability which occasioned
at least minimum industrial protection. The protections were embedded as a result of a com-
mission of inquiry set up by a Liberal government in 1970. It was determined that industrial
regulation for owner-drivers was justified because:

... owner drivers have been in the past exploited as to rates and subjected to oppressive and unreason-
able working conditions. The truth is that an owner driver with one vehicle (on which there is a heavy
debt load) and no certainty of work is in a weak bargaining position and the transport industry is not
lacking in operators prepared to take the fullest advantage of his vulnerability.

That quote is from paragraph 30.17 of a determination by the New South Wales Industrial
Relations Commission in 1970. Were these protections removed, and that would appear to be
the intention of the government, it would result in the disruption of more than 170 registered
contract agreements. These agreements have been negotiated in good faith and strike a bal-
ance between fair risk, cost recovery systems of remuneration and other essential conditions
and productivity goals.

This government remains committed to its ideological war on the industrial heart of this
country: the unions. The government did not seek a mandate from the electorate on its mas-
sive program of industrial relations changes. An analogy I have used previously, and which I
reiterate today, is that this is a cancer that will grow and grow and eat at the heart of this gov-
ernment over time. What the government is doing to this country, and specifically to the
owner-drivers in New South Wales, is a scandal.

MAIN COMMITTEE
Mr LINDSAY (Herbert) (12.55 pm)—On the 10th anniversary of the election of the Howard government and the 10th anniversary of the opposition in opposition, the remarks of the previous speaker, the member for Banks, indicate why the opposition remains in opposition. The government does not have an ideological bent against the unions. Rather, the government is proactive in having an ideological bent to support the families and workers of this country, to make their conditions better and to deliver them higher wages. I will come to that later in this speech.

I was elected in 1996, when the Howard government first took office. It has been a magnificent 10 years. The country has undergone landmark changes for the better. No-one could argue that that is not the case. We in government have done that by working with the community over the last 10 years, and that has enabled us to achieve a lot for Australia. Our country has become stronger, more prosperous and more secure. As a result of the focused, disciplined and experienced hard work of the Howard government, and the often difficult decisions that we have had to take, Australia has prospered.

How have we helped Australia to prosper? We have helped through encouraging and rewarding hard work and giving people the opportunity to have a go. As the Prime Minister and the Treasurer often remark, there are more people in small business than there are trade union members, because people are having a go off their own bat. We have provided focused and disciplined economic management and strong and decisive action on important national issues. Even though some decisions might have been difficult, we have argued our case and won the support of the Australian electorate and taken them with us.

We have made families the cornerstone of our society, we have protected our national security, we have supported freedom of choice and personal responsibility and we have supported small business and individual enterprise. We believe in standing up for the rule of law and individual responsibility, and we believe in acting in the long term, not in the short term.

What has that achieved? Here are some telling statistics—this is a comparison between 1996, when we took over, and the situation now. Net government debt: Labor left us with $96 billion; at the end of this financial year, it will be zero. Average mortgage rates: down from 12.75 per cent to 7.15 per cent. Average small business lending rates: down from 14.25 per cent to 8.75 per cent. Australians in work: up from 8.3 million to 10 million. The unemployment rate: down from 8.2 per cent to 5.1 per cent. The number of long-term unemployed: down from 197,800 to 95,800. Average inflation: down from 5.2 per cent to 2.4 per cent. Standard of living—it is very difficult for the opposition to argue that the government has not made major achievements. Labor left us 13th in rank in the OECD. We are now eighth in rank in the OECD. Real wages growth was 0.3 of one per cent between 1983 and 1996. Since 1996 there has been a 16.8 per cent growth in real wages. Household wealth has doubled; total exports are up from $99 billion to $164 billion; waterfront crane rates, which used to be 16.9, are now 27.7; and days lost in industrial disputes per 1,000 employees were 193 and are now down to 67. I could go on and on. It is very clear that these statistics reflect that the Howard government will probably go down in history as being the most successful government this country has seen. I am proud to be a supporter of the government.

Question agreed to.
QUESTIONs IN WRITING

Iraq
(Question No. 2573)

Mr McClelland asked the Minister for Defence, in writing, on 7 November 2005:

(1) Can the Minister say how many roads, bridges and buildings etc the Japanese engineers in Iraq will build before their mission is completed.

(2) Can the Minister say what the likelihood is of the Japanese Self Defence Force extending its period of deployment to Al Muthanna beyond May 2006.

(3) What is the expected impact of an extension of the Japanese period of deployment on Australia’s plans.

(4) What has the Government been told by the US and British governments about their plans for withdrawal from Iraq.

(5) Can the Minister say (a) what impact the British plans for withdrawal will have on vital medivac, helicopter and artillery support for the Australian detachment in Al Muthanna and (b) whether British plans for withdrawal will leave Australia to fill a massive security void.

(6) Are Iraqi insurgents firing at RAAF Hercules with rocket propelled grenades and other missiles when they are taking off from Baghdad; if so, have any Australian aircraft been damaged and any air crew injured.

(7) In respect of the former Australian embassy building outside the ‘Green Zone’, (a) what is its current use, (b) what does the Government intend to do with it, (c) are Government records still kept there, and (d) is it secure.

(8) What is the Government’s view on the (a) 2004 Flood report which documented inadequate assessment of the security challenges presented by a post-Saddam Iraq and (b) 2005 Australian Strategic Policy Institute (ASPI) report which asserted that “the real mistake was not having sufficient US and Coalition troops in the immediate post-war phase to establish basic law and order and prevent the widespread looting that ensued” and what measures has the Government taken to rectify its approach to assessments of new deployments.

(9) What is the Government’s view on the ASPI assertion that the “vast majority of the Iraqi forces have not been given required counter-insurgency or counter-terrorism training, and do not have the required capabilities to conduct offensive (or at times defensive) operations against the insurgents”.

(10) Are assessments that the Iraqi security forces will not be capable of independent counter-terrorism operations for another two years correct; if so, can the Minister say what the implications of this are for the length of the Australian deployment.

(11) In respect of the acknowledgment that the ADF has limited visibility of military training programs in other Iraqi provinces, can the Minister say (a) what the implications of this are for the eventual integration of Iraqi provincial military units into a cohesive national entity, (b) whether the equipment in use varies from province to province, and (c) whether different provinces use the same operating procedures.

(12) In respect of the shortage of expert Coalition advisers in the reconstruction of the interior Ministry and the Government’s refusal of permission for an AEC official to go on secondment to the Iraqi Independent Electoral Commission, is the Government neglecting vital civilian institution-building and will this lead to an extension of Australia’s military presence.

(13) What is the Government’s view on (a) ethnic divisions in the Iraqi security forces and allegations that some sections are perpetuating ethnic violence whilst in uniform and (b) the continuing opera-
?tion of Kurdish and Shia autonomous militias, and how does Australian training of Iraqi forces at-
tempt to deal with these issues.

(14) Was the Government aware of the conclusions of US intelligence reports when deciding to commit
Australian forces to Iraq in 2003.

(15) Did Australian intelligence agencies conduct assessments of the post-Saddam Iraq environment
prior to and during active operations in 2003.

(16) What remedies have been put in place to correct deficiencies identified in the Flood report and, in
particular, ensure the ADF Security Detachment in Baghdad and the Al Muthanna Task Group re-
ceive up-to-date intelligence on the insurgency and domestic Iraqi political movements.

(17) Has the Defence Intelligence Organisation received additional resources to concentrate specifically
on Iraq’s future political environment.

Dr Nelson—The answer to the honourable member’s question is as follows:

(1) The Japanese Government has not yet decided when their deployment in Al Muthanna will cease,
therefore, it is not possible to say how many construction works will be completed.

(2) On 8 December 2005, the Japanese Government extended the mandate of the Japan Self Defense
Forces deployment to Iraq for a period of one year. The Japanese Government decision did not alter
the size, composition, activity or area of operations of the Japanese deployment in Al Muthanna.
The Japanese Government has stated that any decision regarding withdrawal of their forces for Al
Muthanna would be made in close consultation with the Australian and British Governments.

(3) The ADF will continue to provide in-theatre security for the duration of the Japanese deployment
to Al Muthanna province.

(4) The Government has been advised that the withdrawal of United States (US) and British forces
would not be based on a specific timetable. We understand the US and British withdrawal would
occur in a phased manner as the Iraqi Security Forces (ISF) become capable of taking the security
lead within areas of Iraq. The developing capabilities of relevant Iraqi government institutions and
their readiness to assume responsibility for areas in Iraq will also be factors considered in planning
for coalition withdrawal.

(5) (a) Defence is not aware of any plans to withdraw medivac, helicopter or artillery support from Al
Muthanna Province before May 2006.

(b) Any plans for a British withdrawal would be based on the attainment of certain conditions as
outlined in the response to part (4). Control would be progressively transferred to the Iraqis as
their capacity for assuming control in each area is established, in consultation with coalition
forces. British withdrawal would be dependent on the ISF assuming responsibility for security
in the relevant area.

(6) Yes, RAAF aircraft face a variety of rocket, missile and small arms threats. However, the only time
an aircraft has been damaged was on 27 June 2004, when an Australian C-130 was targeted by
small arms fire while departing Baghdad International Airport. The aircraft was hit by one round
resulting in the death of a US civilian contractor. No Australians were injured. This is the only in-
cidence of an Australian aircraft being hit by ground fire during Operation CATALYST.

(7) This question should be directed to the Minister for Foreign Affairs.

(8) (a) The recommendations of The Flood Report were endorsed and are being implemented.

(b) Maintaining law and order following the collapse of Saddam Hussein’s regime presented
many challenges. In responding to these challenges, coalition forces have distinguished them-
selves in extraordinarily difficult circumstances. Since the removal of the Saddam Hussein re-
gime, coalition forces have been involved in the stabilisation and reconstruction of Iraq. These
reconstruction efforts include the raising and training of the ISF who are gradually assuming responsibility for law and order in their own country.

(9) The Iraqi Army has been given and continues to receive extensive training and mentoring by coalition forces in counter-insurgency techniques, tactics and procedures based on accepted allied doctrine.

(10) Since the cessation of formal hostilities in May 2003, the Coalition has been involved in the training of the ISF to enable it to assume responsibility for security of Iraq as soon as possible. The level and scope of collective training of ISF units is being progressively expanded to address the range of threats that they will face in the execution of their duties in Iraq.

(11) (a) The Multi-National Security Transition Command – Iraq is responsible for developing the central structures for the effective employment of a national army. Australia is contributing to this task.

(b) Yes, but the majority of weapons are standardised and most tactical vehicles are American.

(c) There are some minor differences in operating procedures due to the training teams originating from different members of the coalition. Nevertheless, training by coalition forces is based on accepted allied doctrine.

(12) Australia continues to support development in Iraq in this realm through the provision of approximately $12 million in electoral assistance to the United Nations Electoral Division, which has contributed to meeting the cost of conducting elections and building the capacity of the Independent Electoral Commission of Iraq. This sum is part of Australia’s provision of over $170 million in humanitarian and reconstruction assistance to date, and stands alongside the commitment of more than 30 advisers to provide expert and technical assistance in fields such as agriculture, economic and trade reform, electricity generation and donor coordination.

(13) (a) and (b) While the Government acknowledges that the ethnic, religious, and political divisions within the Iraqi Army are a matter for Iraq, it is mindful of the importance of cooperation between Iraqi ethnic groups in the formation of a professional national Defence Force. The training of Iraqi units by the Australian Army Training Team continues to be delivered in a professional, honest and culturally sensitive manner.

(14) All intelligence available to the Government was taken into account in deciding to commit forces to Iraq.

(15) Yes.

(16) There have been a range of measures initiated and implemented within the Defence Intelligence Organisation to meet the recommendations of the 2004 Flood Report, including measures to improve the coordination and contestability of intelligence.

The Commander of Joint Task Force 633 ensures that the Security Detachment in Baghdad and the Al Muthanna Task Group receive the most recent intelligence.

(17) No.

Sydney (Kingsford Smith) Airport

(Question No. 3017)

Mr Murphy asked the Minister representing the Minister for Justice and Customs, in writing, on 9 February 2006:

Can the Minister confirm that security cameras used by the Australian Customs Service in the cargo-handling areas of Sydney airport were stolen or interfered with before May 2005; if so, what are the details; if not, why not.
Mr Ruddock—The Minister for Justice and Customs has provided the following answer to the honourable member’s question:

The Customs maintenance provider of its CCTV cameras at Sydney International Airport has been required to adjust two of Customs’ CCTV cameras in the baggage make-up area of the airport on three occasions in total between October 2004 and May 2005. These adjustments were required to correct the field of view following reports from Customs’ control room operators that cameras were pointing in the wrong direction.