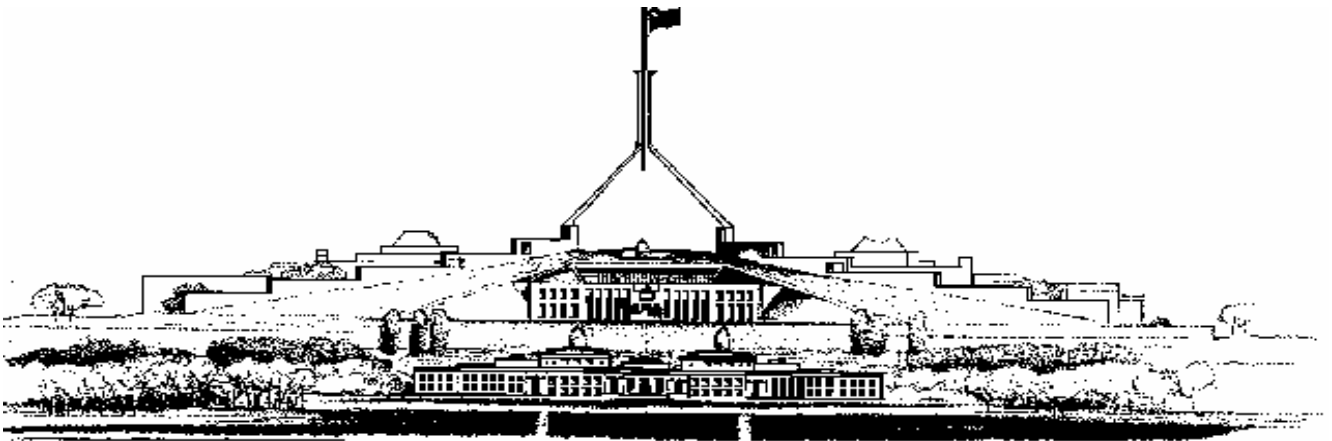




COMMONWEALTH OF AUSTRALIA

**PARLIAMENTARY DEBATES**



**Senate**

**Official Hansard**

**No. 4, 2005**

**WEDNESDAY, 9 FEBRUARY 2005**

FORTY-FIRST PARLIAMENT  
FIRST SESSION—SECOND PERIOD

BY AUTHORITY OF THE SENATE



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### SITTING DAYS—2005

Month	Date
February	8, 9, 10
March	7, 8, 9, 10, 14, 15, 16, 17
May	10, 11, 12
June	14, 15, 16, 20, 21, 22, 23
August	9, 10, 11, 15, 16, 17, 18
September	5, 6, 7, 8, 12, 13, 14, 15
October	4, 5, 6, 10, 11, 12, 13
November	7, 8, 9, 10, 28, 29, 30
December	1, 5, 6, 7, 8

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**FORTY-FIRST PARLIAMENT  
FIRST SESSION—SECOND PERIOD**

**Governor-General**

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

**Senate Officeholders**

*President*—Senator the Hon. Paul Henry Calvert

*Deputy President and Chairman of Committees*—Senator John Joseph Hogg

*Temporary Chairmen of Committees*—Senators the Hon. Nick Bolkus, George Henry Brandis, Hedley Grant Pearson Chapman, John Clifford Cherry, Patricia Margaret Crossin, Alan Baird Ferguson, Stephen Patrick Hutchins, Linda Jean Kirk, Susan Christine Knowles, Philip Ross Lightfoot, John Alexander Lindsay (Sandy) Macdonald, Gavin Mark Marshall, Claire Mary Moore and John Odin Wentworth Watson

*Leader of the Government in the Senate*—Senator the Hon. Robert Murray Hill

*Deputy Leader of the Government in the Senate*—Senator the Hon. Nicholas Hugh Minchin

*Leader of the Opposition in the Senate*—Senator Christopher Vaughan Evans

*Deputy Leader of the Opposition in the Senate*—Senator Stephen Michael Conroy

*Manager of Government Business in the Senate*—Senator the Hon. Christopher Martin Ellison

*Manager of Opposition Business in the Senate*—Senator Joseph William Ludwig

**Senate Party Leaders and Whips**

*Leader of the Liberal Party of Australia*—Senator the Hon. Robert Murray Hill

*Deputy Leader of the Liberal Party of Australia*—Senator the Hon. Nicholas Hugh Minchin

*Leader of the National Party of Australia*—Senator the Hon. Ronald Leslie Doyle Boswell

*Deputy Leader of the National Party of Australia*—Senator John Alexander Lindsay (Sandy) Macdonald

*Leader of the Australian Labor Party*—Senator Christopher Vaughan Evans

*Deputy Leader of the Australian Labor Party*—Senator Stephen Michael Conroy

*Leader of the Australian Democrats*—Senator Lynette Fay Allison

*Liberal Party of Australia Whips*—Senators Jeannie Margaret Ferris and Alan Eggleston

*National Party of Australia Whip*—Senator Julian John James McGauran

*Opposition Whips*—Senators George Campbell and Geoffrey Frederick Buckland

*Australian Democrats Whip*—Senator Andrew John Julian Bartlett

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### Members of the Senate

Senator	State or Territory	Term expires	Party
Abetz, Hon. Eric	Tas	30.6.2005	LP
Allison, Lynette Fay	Vic	30.6.2008	AD
Barnett, Guy <sup>(5)</sup>	Tas	30.6.2005	LP
Bartlett, Andrew John Julian	Qld	30.6.2008	AD
Bishop, Thomas Mark	WA	30.6.2008	ALP
Bolkus, Hon. Nick	SA	30.6.2005	ALP
Boswell, Hon. Ronald Leslie Doyle	Qld	30.6.2008	NATS
Brandis, George Henry <sup>(2)</sup>	Qld	30.6.2005	LP
Brown, Robert James	Tas	30.6.2008	AG
Buckland, Geoffrey Frederick <sup>(4)</sup>	SA	30.6.2005	ALP
Calvert, Hon. Paul Henry	Tas	30.6.2008	LP
Campbell, George	NSW	30.6.2008	ALP
Campbell, Hon. Ian Gordon	WA	30.6.2005	LP
Carr, Kim John	Vic	30.6.2005	ALP
Chapman, Hedley Grant Pearson	SA	30.6.2008	LP
Cherry, John Clifford <sup>(3)</sup>	Qld	30.6.2005	AD
Colbeck, Richard Mansell	Tas	30.6.2008	LP
Collins, Jacinta Mary Ann	Vic	30.6.2005	ALP
Conroy, Stephen Michael	Vic	30.6.2005	ALP
Cook, Hon. Peter Francis Salmon	WA	30.6.2005	ALP
Coonan, Hon. Helen Lloyd	NSW	30.6.2008	LP
Crossin, Patricia Margaret <sup>(1)</sup>	NT		ALP
Denman, Kay Janet	Tas	30.6.2005	ALP
Eggleston, Alan	WA	30.6.2008	LP
Ellison, Hon. Christopher Martin	WA	30.6.2005	LP
Evans, Christopher Vaughan	WA	30.6.2005	ALP
Faulkner, Hon. John Philip	NSW	30.6.2005	ALP
Ferguson, Alan Baird	SA	30.6.2005	LP
Ferris, Jeannie Margaret	SA	30.6.2008	LP
Fifield, Mitchell Peter <sup>(7)</sup>	Vic	30.6.2008	LP
Forshaw, Michael George	NSW	30.6.2005	ALP
Greig, Brian Andrew	WA	30.6.2005	AD
Harradine, Brian	Tas	30.6.2005	Ind
Harris, Leonard William	QLD	30.6.2005	PHON
Heffernan, Hon. William Daniel	NSW	30.6.2005	LP
Hill, Hon. Robert Murray	SA	30.6.2008	LP
Hogg, John Joseph	QLD	30.6.2008	ALP
Humphries, Gary John Joseph <sup>(1)</sup>	ACT		LP
Hutchins, Stephen Patrick	NSW	30.6.2005	ALP
Johnston, David Albert Lloyd	WA	30.6.2008	LP
Kemp, Hon. Charles Roderick	VIC	30.6.2008	LP
Kirk, Linda Jean	SA	30.6.2008	ALP
Knowles, Susan Christine	WA	30.6.2005	LP
Lees, Meg Heather	SA	30.6.2005	APA
Lightfoot, Philip Ross	WA	30.6.2008	LP
Ludwig, Joseph William	QLD	30.6.2005	ALP
Lundy, Kate Alexandra <sup>(1)</sup>	ACT		ALP

Senator	State or Territory	Term expires	Party
Macdonald, Hon. Ian Douglas	QLD	30.6.2008	LP
Macdonald, John Alexander Lindsay (Sandy)	NSW	30.6.2008	NATS
McGauran, Julian John James	VIC	30.6.2005	NATS
Mackay, Susan Mary	TAS	30.6.2008	ALP
McLucas, Jan Elizabeth	QLD	30.6.2005	ALP
Marshall, Gavin Mark	VIC	30.6.2008	ALP
Mason, Brett John	QLD	30.6.2005	LP
Minchin, Hon. Nicholas Hugh	SA	30.6.2005	LP
Moore, Claire Mary	QLD	30.6.2008	ALP
Murphy, Shayne Michael	TAS	30.6.2005	Ind
Murray, Andrew James Marshall	WA	30.6.2008	AD
Nettle, Kerry Michelle	NSW	30.6.2008	AG
O'Brien, Kerry Williams Kelso	TAS	30.6.2005	ALP
Patterson, Hon. Kay Christine Lesley	VIC	30.6.2008	LP
Payne, Marise Ann	NSW	30.6.2008	LP
Ray, Hon. Robert Francis	VIC	30.6.2008	ALP
Ridgeway, Aden Derek	NSW	30.6.2005	AD
Santoro, Santo <sup>(6)</sup>	QLD	30.6.2008	LP
Scullion, Nigel Gregory <sup>(1)</sup>	NT		CLP
Sherry, Hon. Nicholas John	TAS	30.6.2008	ALP
Stephens, Ursula Mary	NSW	30.6.2008	ALP
Stott Despoja, Natasha Jessica	SA	30.6.2008	AD
Tchen, Tsebin	VIC	30.6.2005	LP
Tierney, John William	NSW	30.6.2005	LP
Troeth, Hon. Judith Mary	VIC	30.6.2005	LP
Vanstone, Hon. Amanda Eloise	SA	30.6.2005	LP
Watson, John Odin Wentworth	TAS	30.6.2008	LP
Webber, Ruth Stephanie	WA	30.6.2008	ALP
Wong, Penelope Ying Yen	SA	30.6.2008	ALP

- (1) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.  
(2) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. Warwick Raymond Parer, resigned.  
(3) Chosen by the Parliament of Queensland to fill a casual vacancy vice John Woodley, resigned.  
(4) Chosen by the Parliament of South Australia to fill a casual vacancy vice John Andrew Quirke, resigned.  
(5) Appointed by the Governor of Tasmania to fill a casual vacancy vice Hon. Brian Francis Gibson AM, resigned.  
(6) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. John Joseph Herron, resigned.  
(7) Chosen by the Parliament of Victoria to fill a casual vacancy vice Hon. Richard Kenneth Robert Alston, resigned.

#### PARTY ABBREVIATIONS

AD—Australian Democrats; AG—Australian Greens; ALP—Australian Labor Party; APA—Australian Progressive Alliance; CLP—Country Labor Party; Ind—Independent; LP—Liberal Party of Australia; NATS—The Nationals; PHON—Pauline Hanson's One Nation

#### **Heads of Parliamentary Departments**

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

## HOWARD MINISTRY

Prime Minister	The Hon. John Winston Howard MP
Minister for Transport and Regional Services and Deputy Prime Minister	The Hon. John Duncan Anderson MP
Treasurer	The Hon. Peter Howard Costello MP
Minister for Trade	The Hon. Mark Anthony James Vaile MP
Minister for Defence and Leader of the Government in the Senate	Senator the Hon. Robert Murray Hill
Minister for Foreign Affairs	The Hon. Alexander John Gosse Downer MP
Minister for Health and Ageing and Leader of the House	The Hon. Anthony John Abbott MP
Attorney-General	The Hon. Philip Maxwell Ruddock MP
Minister for Finance and Administration, Deputy Leader of the Government in the Senate and Vice-President of the Executive Council	Senator the Hon. Nicholas Hugh Minchin
Minister for Agriculture, Fisheries and Forestry	The Hon. Warren Errol Truss MP
Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs	Senator the Hon. Amanda Eloise Vanstone
Minister for Education, Science and Training	The Hon. Dr Brendan John Nelson MP
Minister for Family and Community Services and Minister Assisting the Prime Minister for Women's Issues	Senator the Hon. Kay Christine Lesley Patterson
Minister for Industry, Tourism and Resources	The Hon. Ian Elgin Macfarlane MP
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service	The Hon. Kevin James Andrews MP
Minister for Communications, Information Technology and the Arts	Senator the Hon. Helen Lloyd Coonan
Minister for the Environment and Heritage	Senator the Hon. Ian Gordon Campbell

**(The above ministers constitute the cabinet)**



## **HOWARD MINISTRY—*continued***

Minister for Justice and Customs and Manager of Government Busines in the Senate	Senator the Hon. Christopher Martin Ellison
Minister for Fisheries, Forestry and Conservation	Senator the Hon. Ian Douglas Macdonald
Minister for the Arts and Sport	Senator the Hon. Charles Roderick Kemp
Minister for Human Services	The Hon. Joseph Benedict Hockey MP
Minister for Citizenship and Multicultural Affairs and Deputy Leader of the House	The Hon. Peter John McGauran MP
Minister for Revenue and Assistant Treasurer	The Hon. Malcolm Thomas Brough MP
Special Minister of State	Senator the Hon. Eric Abetz
Minister for Vocational and Technical Education and Minister Assisting the Prime Minister	The Hon. Gary Douglas Hardgrave MP
Minister for Ageing	The Hon. Julie Isabel Bishop MP
Minister for Small Business and Tourism	The Hon. Frances Esther Bailey MP
Minister for Local Government, Territories and Roads	The Hon. James Eric Lloyd MP
Minister for Veterans' Affairs and Minister Assisting the Minister for Defence	The Hon. De-Anne Margaret Kelly MP
Minister for Workforce Participation	The Hon. Peter Craig Dutton MP
Parliamentary Secretary to the Minister for Finance and Administration	The Hon. Dr Sharman Nancy Stone MP
Parliamentary Secretary to the Minister for Industry, Tourism and Resources	The Hon. Warren George Entsch MP
Parliamentary Secretary to the Minister for Health and Ageing	The Hon. Christopher Maurice Pyne MP
Parliamentary Secretary to the Minister for Defence	The Hon. Teresa Gambaro MP
Parliamentary Secretary (Foreign Affairs and Trade)	The Hon. Bruce Fredrick Billson MP
Parliamentary Secretary to the Prime Minister	The Hon. Gary Roy Nairn MP
Parliamentary Secretary to the Treasurer	The Hon. Christopher John Pearce MP
Parliamentary Secretary to the Minister for Transport and Regional Services	The Hon. John Kenneth Cobb MP
Parliamentary Secretary to the Minister for the Environment and Heritage	The Hon. Gregory Andrew Hunt MP
Parliamentary Secretary (Children and Youth Affairs)	The Hon. Sussan Penelope Ley MP
Parliamentary Secretary to the Minister for Education, Science and Training	The Hon. Patrick Francis Farmer MP
Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry	Senator the Hon. Richard Mansell Colbeck

## **SHADOW MINISTRY**

Leader of the Opposition	The Hon. Kim Christian Beazley MP
Deputy Leader of the Opposition and Shadow Minister for Education, Training, Science and Research	Jennifer Louise Macklin MP
Leader of the Opposition in the Senate and Shadow Minister for Social Security	Senator Christopher Vaughan Evans
Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology	Senator Stephen Michael Conroy
Shadow Minister for Health and Manager of Opposition Business in the House	Julia Eileen Gillard MP
Shadow Treasurer	Wayne Maxwell Swan MP
Shadow Minister for Industry, Infrastructure and Industrial Relations	Stephen Francis Smith MP
Shadow Minister for Foreign Affairs and International Security	Kevin Michael Rudd MP
Shadow Minister for Defence and Homeland Security	Robert Bruce McClelland MP
Shadow Minister for Trade	The Hon. Simon Findlay Crean MP
Shadow Minister for Primary Industries, Resources and Tourism	Martin John Ferguson MP
Shadow Minister for Environment and Heritage and Deputy Manager of Opposition Business in the House	Anthony Norman Albanese MP
Shadow Minister for Public Administration and Open Government, Shadow Minister for Indigenous Affairs and Reconciliation and Shadow Minister for the Arts	Senator Kim John Carr
Shadow Minister for Regional Development and Roads and Shadow Minister for Housing and Urban Development	Kelvin John Thomson MP
Shadow Minister for Finance and Superannuation	Senator the Hon. Nicholas John Sherry
Shadow Minister for Work, Family and Community, Shadow Minister for Youth and Early Childhood Education and Shadow Minister Assisting the Leader on the Status of Women	Tanya Joan Plibersek MP
Shadow Minister for Employment and Workplace Participation and Shadow Minister for Corporate Governance and Responsibility	Senator Penelope Ying Yen Wong

**(The above are shadow cabinet ministers)**

### **SHADOW MINISTRY—*continued***

Shadow Minister for Immigration	Laurence Donald Thomas Ferguson MP
Shadow Minister for Agriculture and Fisheries	Gavan Michael O'Connor MP
Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow Minister for Banking and Financial Services	Joel Andrew Fitzgibbon MP
Shadow Attorney-General	Nicola Louise Roxon MP
Shadow Minister for Regional Services, Local Government and Territories	Senator Kerry Williams Kelso O'Brien
Shadow Minister for Manufacturing and Shadow Minister for Consumer Affairs	Senator Kate Alexandra Lundy
Shadow Minister for Defence Planning, Procurement and Personnel and Shadow Minister Assisting the Shadow Minister for Industrial Relations	The Hon. Archibald Ronald Bevis MP
Shadow Minister for Sport and Recreation	Alan Peter Griffin MP
Shadow Minister for Veterans' Affairs	Senator Thomas Mark Bishop
Shadow Minister for Small Business	Tony Burke MP
Shadow Minister for Ageing, Disabilities and Carers	Senator Jan Elizabeth McLucas
Shadow Minister for Justice and Customs, Shadow Minister for Citizenship and Multicultural Affairs and Manager of Opposition Business in the Senate	Senator Joseph William Ludwig
Shadow Minister for Pacific Islands	Robert Charles Grant Sercombe MP
Shadow Parliamentary Secretary to the Leader of the Opposition	John Paul Murphy MP
Shadow Parliamentary Secretary for Defence	The Hon. Graham John Edwards MP
Shadow Parliamentary Secretary for Education	Kirsten Fiona Livermore MP
Shadow Parliamentary Secretary for Environment and Heritage	Jennie George MP
Shadow Parliamentary Secretary for Infrastructure	Bernard Fernando Ripoll MP
Shadow Parliamentary Secretary for Health	Ann Kathleen Corcoran MP
Shadow Parliamentary Secretary for Regional Development (House)	Catherine Fiona King MP
Shadow Parliamentary Secretary for Regional Development (Senate)	Senator Ursula Mary Stephens
Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs	The Hon. Warren Edward Snowdon MP

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*Wednesday, 9 February 2005*

**The PRESIDENT (Senator the Hon. Paul Calvert)** took the chair at 9.30 a.m. and read prayers.

### BUDGET

#### Consideration by Legislation Committees Meeting

**Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.31 a.m.)**—I move:

- (1) That estimates hearings by legislation committees for the year 2005 be scheduled as follows:

#### 2004-05 additional estimates:

Monday, 14 February and Tuesday, 15 February and, if required, Friday, 18 February (*Group A*)

Wednesday, 16 February and Thursday, 17 February and, if required, Friday, 18 February (*Group B*)

#### 2005-06 Budget estimates:

Monday, 23 May to Thursday, 26 May and, if required, Friday, 27 May (*Group A*)

Monday, 30 May to Thursday, 2 June and, if required, Friday, 3 June (*Group B*)

Monday, 31 October and Tuesday, 1 November (*supplementary hearings—Group A*)

Wednesday, 2 November and Thursday, 3 November (*supplementary hearings—Group B*).

- (2) That the committees consider the proposed expenditure in accordance with the allocation of departments to committees agreed to by the Senate.
- (3) That committees meet in the following groups:

#### Group A:

Environment, Communications, Information Technology and the Arts  
Finance and Public Administration

Legal and Constitutional

Rural and Regional Affairs and Transport

#### Group B:

Community Affairs

Economics

Employment, Workplace Relations and Education

Foreign Affairs, Defence and Trade.

- (4) That the committees report to the Senate on the following dates:

Tuesday, 15 March 2005 in respect of the 2004-05 additional estimates; and

Monday, 20 June 2005 in respect of the 2005-06 Budget estimates.

**Senator LUDWIG (Queensland) (9.31 a.m.)**—We have not had an opportunity to have a look at this proposal. We would prefer to defer debate until tomorrow.

Debate (on motion by **Senator Ellison**) adjourned.

### SENATE TEMPORARY ORDERS

**Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 a.m.)**—At the request of Senator Minchin, I move:

That the following orders operate as temporary orders until the conclusion of the 2005 sittings:

- (1) If a division is called for on Thursday after 4.30 pm, the matter before the Senate shall be adjourned until the next day of sitting at a time fixed by the Senate.
- (2) On the question for the adjournment of the Senate on Tuesday, a senator who has spoken once subject to the time limit of 10 minutes may speak again for not more than 10 minutes if no other senator who has not already spoken once wishes to speak, provided that a senator may by leave speak for not more than 20 minutes on one occasion.

Question agreed to.

## BUSINESS

### Consideration of Legislation

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (9.32 a.m.)—At the request of Senator Minchin, I move the motion as amended:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Family Assistance Legislation Amendment (Adjustment of Certain FTB Child Rates) Bill 2004

Private Health Insurance Incentives Amendment Bill 2004

Question agreed to.

### DISABILITY DISCRIMINATION AMENDMENT (EDUCATION STANDARDS) BILL 2004 [2005]

#### Second Reading

Debate resumed from 8 February, on motion by **Senator Ian Campbell**:

That this bill be now read a second time.

**Senator CARR** (Victoria) (9.32 a.m.)—Last night when I spoke to this bill I made the point that, while I support the government's introduction of new standards and its taking the lead in that regard, I express profound disappointment that it has taken so long for an agreement to have been reached between the Commonwealth and the states on this issue. It is a dispute that I note is now well over 10 years old, and it is yet another example of the difficulties that we face in building an education system based on equality and justice. Nonetheless, I strongly take exception to the proposition that the Commonwealth has now put to this parliament. I support the measure, but it has not provided the resources to back up the changes that it is now proposing to introduce.

As a consequence, the simple proposition is advanced by the opposition that the Commonwealth ought to put their money where their mouth is. They ought to be saying, 'Yes, we support justice for all our citizens, particularly with regard to their educational opportunities.' We ought to be able to provide opportunities for all students in this country to maximise their skills and to make sure that they take full advantage of all of their capacities. On the other hand, we should not say that this is entirely a matter for the states to deal with and that the cost should be shared for these high standards. With that in mind, I argued last night that the Commonwealth ought to put their money where their mouth is.

The other proposition that needs to be highlighted in this debate is that, while it is all very well for the Commonwealth to move advances in setting a framework for higher standards and definitions—something I strongly support—the fundamental problem comes back to attitude. It is not just a question of money; it is also a question of attitude. The principal source of discrimination in education is often attitude. It is the view that some people are not entitled to equal treatment, are not entitled to enjoy the full benefits of the education system. So, with that in mind, I am very concerned that some of the measures in this bill to extend the principles of undue hardship may well be taken advantage of by some education authorities where they have failed to meet their commitments in the past. We know that is the case because there are legal precedents for it, whereby some particular school authorities have taken the view that some students should not be enrolled in a school because it would place an undue hardship on that school. The measures in this bill extend the right of schools to take an attitude that says that undue hardship may be inflicted after a student is enrolled. I am concerned that that

may cause a problem where the attitude of some school authorities is fundamentally based on discrimination.

This is particularly important, given that the state education systems are obliged to take all comers. That is one of the fundamental principles of our public education system in this country. That is not to say that some school authorities are without blame in this matter. I know that some state authorities have sought in the past to avoid their responsibilities. Nonetheless, the fundamental principle remains that it is more difficult for public education authorities to deny enrolment opportunities to students with disabilities. The same cannot be said for the private system, which is much more able to act in a discriminatory way in its new enrolments and continuing enrolments of students with disabilities. With that in mind, I strongly urge the Commonwealth to take the opportunity with this particular disability standard to develop a new, enlightened approach to professional development for teachers, lecturers, school principals and those who make decisions with regard to the requirements placed on them by these new standards. It is important that the theory of educational equality is matched with the practice of educational equality.

There could be no more fundamental human right with regard to a social democratic society than the capacity of each and every citizen to share in the resources of that society, particularly when it comes to education. So I take the view that if we are to be serious about removing discrimination towards people with disabilities then we have to make sure that the education system is genuinely inclusive. In that context we take the view that the government have a particular responsibility at the Commonwealth level to support professional development, and I am disappointed that that opportunity has not been seized by the government. I urge them

to change their attitude in that regard and to make it the case that this government are able to ensure that human rights and equality of opportunity for all Australians, particularly our disadvantaged citizens, are able to be exercised. Labor support the [Disability Discrimination Amendment \(Education Standards\) Bill 2004 \[2005\]](#). We strongly believe that the Commonwealth must immediately undertake negotiations with the states, territories and education authorities about improving the resource base to support these new standards. (*Time expired*)

**Senator GREIG (Western Australia)** (9.38 a.m.)—It is a very rare event that a bill seeking to constructively and positively address the imbalance experienced by people with disabilities comes before the Senate. We are much more used to seeing the government, particularly in recent years, introducing legislation in this place that tends to limit the income, reduce the support and add to the overall disadvantage faced by many people with a disability and by their carers. Sadly, we are likely to see more of that in coming months.

Rather than focusing on discrimination and other systemic barriers, the government continues to pursue a policy direction that can only punish those with a disability by effectively blaming them for their predicament. By restricting access to the disability support pension and forcing people with disabilities into the Job Network, and by limiting income and using coercion, the government seems to feel that it can ‘fix’ the people it sees as ‘bludgers with bad backs’—that is the perception. Never mind that many people with a disability and their carers are less competitive in the open market because of discriminatory employment practices, inflexible workplaces, restricted access to quality education, and particular needs which are often viewed by employers as little more than added hassle or extra cost. This is the

approach we have come to recognise and expect from the government, and that is why, when a bill of this nature comes before the Senate, we should warmly welcome it and embrace it enthusiastically.

The education standards have taken a very long time to reach this threshold. It is well over 10 years since the Disability Discrimination Act came into effect and almost 10 years since the then Attorney-General requested that a range of standards be developed—the education standards being amongst them. In that time, only one group of standards—that relating to accessible public transport—has come into effect. Understandably, the repeated delays have been the subject of some criticism, and we Democrats have shared that frustration to some small extent. Nine years is a very long time in anyone's estimation. This is especially so for people who have lacked suitable information about what their right to an accessible education actually means and for education providers who, uncertain about their obligations, have faced the possibility of discrimination complaints being made against them.

While it has taken some time to get to this point, the standards development process has facilitated a great deal of fruitful discussion about accessible education for people with disabilities, and we have moved forward as a community. Along with the Senate inquiry into the education of students with a disability, the report having been tabled in 2002, and the Productivity Commission's review of the DDA, the report having been tabled in 2004, we now have a much clearer picture of education access issues for people with a disability than at any previous time. As a result, there have been many improvements in the education experience of people with disabilities in the years since the DDA was introduced. According to the Productivity Commission's report, the number of students with a disability who are attending main-

stream government, Catholic and other non-government schools has increased, and more are participating in higher education. These same students are also attaining higher levels of education, with more completing secondary school and further education. However, these improvements have not been uniform across all education sectors or for people with different and multiple disabilities.

While many students with disabilities are staying in education longer, they are still not up to the levels of students without a disability. They are far less likely, for example, to complete year 12, postgraduate degrees or higher level TAFE accreditation than their able-bodied peers. Additionally, students with a disability in higher education also tend to be located within specific fields, such as the arts and humanities, and are far less likely to undertake careers, for example, in accounting or engineering. Clearly we still have some way to go before we can confidently claim that students with disabilities are receiving the same quality education and results as their peers. Students with disabilities seeking to enter higher education have also been disadvantaged by the same funding cuts, reduced and withdrawn income supports, and increasing fees that have plagued all higher education students. When we consider the other barriers faced by students with a disability it can be argued that these policies have had a disproportionately harder effect on them.

The Senate inquiry report further highlighted significant issues in relation to the delivery of primary and secondary education programs. These issues are underpinned by an overall lack of funding, inappropriate and inconsistent targeting of existing funds, and poor staff training and development in some areas. These problems have left many teachers ill-equipped to cope with the diverse learning needs of their pupils. The result is that many students with disabilities, their

parents and, in many instances, their teachers, feel poorly supported. Many also face the double disadvantage arising from multiple disabilities and/or economic disadvantage. According to the HILDA survey of 2002-03, families caring for a child with a disability have a net worth of up to 42 per cent less than comparable families, pushing many well below the poverty line. Many families caring for children with a disability face enormous hardship in maintaining adequate and stable incomes, with carers being far less likely to be employed and, for those who are, far more likely to be working part-time. Meeting regular daily costs, let alone any costs associated with a child's disability, is a major difficulty for many families. These difficulties have been made worse by a history of reduced access to carers payments that have failed to keep up with the rising costs of ordinary living.

There can be little doubt, though, that all of these factors make accessing quality education and staying in it much harder for many people with disabilities. While the disability standards for education will not directly resolve many of these broader issues or have any impact on the harsh, unnecessary and unfair policy directions taken in that regard, they will assist to remedy and reduce at least some of the barriers to education that people with a disability encounter in their contact with schools, universities, TAFEs and other training providers. The standards clarify and elaborate on what education providers must do in order to meet the requirements of the DDA, thereby assisting them to eliminate discrimination and maximise opportunity, access and engagement of students with a disability in a learning environment.

According to the explanatory memorandum, the bill prepares the DDA for the subsequent introduction of the disability standards for education by, firstly, defining the term 'education provider'; secondly, extend-

ing the unjustifiable hardship provisions of the act; thirdly, making discrimination in the development or accreditation of curricula or training courses unlawful; fourthly, requiring education providers to develop strategies and programs to prevent harassment and victimisation; and, finally, clarifying that reasonable adjustments may be required. While we Democrats fully support the principle of the bill and are really keen to see the standards pass quickly, we have also been concerned to ensure that this process occurs with full and proper consideration. This is why we referred the bill to a quick inquiry at the end of last year.

Although the process for developing the standards has been a lengthy one and the subject of much consultation, there were and continue to be a number of outstanding issues. While there is broad agreement about the principles underpinning the standards, state and territory education ministers have been unable to agree about what costs might be associated with their implementation. Throughout the course of the standards' development, the states and territories provided widely divergent estimates as to how much the standards might cost to implement, ranging from that of the ACT and Tasmania, which believed costs would be negligible, to that of New South Wales, which cited costs in the order of \$1.8 billion. As a consequence of these concerns, conditional support was given by the states in July 2003, provided the Commonwealth committed to providing new, non-recurrent funding for all professional development costs and the sharing of unforeseen costs arising from the standards. Cost estimates are not uniform across sectors either. The higher education sector believes it is already a long way towards ensuring that it meets the requirements of the DDA and does not expect substantial additional cost, while the non-government primary and secondary education sector have aired concerns about a

disproportionate impact on their sector because, as they argue, the number of students within their systems is increasing at a rate far greater than funding growth.

The flip side of those arguments, however, has come from a range of organisations within the disability sector as well as the Human Rights and Equal Opportunity Commission and others. They are of the view that the standards do not create any additional requirements for education providers but, rather, describe existing obligations in greater detail. Therefore, they argue, there should be no additional costs attributable to the standards' introduction. Independent consultants engaged by DEST as part of the regulation impact statement process agreed with this position and dramatically revised and reduced cost estimates. They did acknowledge, however, that costs associated with professional development were legitimate. They recommended one-off and new funding to help meet those costs. We Democrats have sympathy for that view.

As a matter of basic principle, we do not accept that the provision of accessible education to students with a disability should boil down to an argument about funding. Accessible education ought to be a fundamental right. It should be freely available and non-discriminatory in its approach. Additionally, we agree that the standards only clarify existing obligations on education providers, so they should have no real cost impact. We do, however, support the need for an education program accompanying their introduction. Such a program should not be financed by schools already starved of program and professional development funding. We welcome the government's stated commitment to continuing the development of professional development materials, but we call on it to quantify this commitment and ensure that funding is also provided to make sure that these materials are comprehensively deliv-

ered in an appropriate professional development training environment.

Another area of significant concern to the Democrats at the time of the inquiry referral was the extension of unjustifiable hardship provisions within the act to all post-enrolment situations. The Attorney-General asserted quite correctly that this extension is consistent with recommendations contained in the Productivity Commission's review of the DDA, but he failed to mention that this was conditional on the inclusion in the act of the concept of reasonable adjustment. Such an inclusion would act as a check and balance by expressly requiring education providers to ensure that all reasonable adjustments are made to the point of unjustifiable hardship to remedy discrimination on the grounds of disability. In effect, the government proposes in this bill to dramatically extend the circumstances in which education providers can claim a defence to discrimination and, in the process, severely restrict the rights of students, without providing the corresponding check and balance of reasonable adjustment as recommended by the Productivity Commission.

Disability groups, it must be said, were split on this issue. Although unanimous in their philosophical opposition to such a move, many had come to a position that the extension was a concession they were willing to make for the greater comparative benefit of the standards. Many others, especially disability law experts such as the Public Interest Advocacy Centre, People With Disability Australia, Australian Lawyers for Human Rights and Family Advocacy, maintained their concern. They argued that, while the concept of reasonable adjustment is referred to in the amending bill, it is not defined. Also, while it is referred to in the draft standards, it is not expressly linked to unjustifiable hardship provisions. The failure to include and link the concept of reasonable

adjustment to unjustifiable hardship is further compounded, they argue, because the amending bill does not expressly require that any avoidance of discrimination must necessarily impose an unjustifiable hardship. It is simply enough to demonstrate that unjustifiable hardship is present, without exploration of alternative methods that might avoid that hardship. We Democrats share these concerns and believe these issues represent serious limitations in the bill.

Since these issues were raised late last year, however, the government has released its response to the recommendations of the Productivity Commission review of the DDA. In part, it has accepted the commission's recommendation that a definition of 'reasonable adjustment' be included in the substantive act. The government's commitment to a broader review of the DDA, especially in this regard, has been accepted by disability advocates and satisfied their immediate concerns relating to this bill. To that end, we Democrats will not seek to amend the current bill to deal with these limitations but join with the disability sector in calling on the government to ensure the Productivity Commission's recommendations for improvement to the DDA are a matter of priority.

We commend the introduction of this bill. It is an important and positive step towards dramatically improving the experience of many students with a disability in education, by improving their access and reducing the discrimination they may suffer. The bill and subsequent standards represent the culmination of many years of work by a great number of people across disability, education and training, and government and non-government sectors, whose input cannot be underestimated. Having noted our concerns for improvement to the DDA and the need for additional funding for the standards' introduction, we look forward to the passage of

this bill and the speedy introduction of the disability standards for education.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Industry, Tourism and Resources) (9.53 a.m.)—I am very pleased to speak on the Disability Discrimination Amendment (Education Standards) Bill 2004 [2005]. As a former teacher and former member of the Senate Employment, Education and Training References Committee, it is always a subject in which I have taken a great interest. This bill amends the Disability Discrimination Act 1992 in minor ways to ensure that the draft disability standards for education are fully supported by the act. The standards will provide greater certainty and clarity for education providers as to their obligations under the act. The development of these standards has involved ongoing and extensive consultation with key education, training and disability stakeholders. Indeed, I note that the instigation of the work on the development of the standards was a request in 1995—10 years ago—from the then Attorney-General to the then Minister for Employment, Education and Training, seeking advice on the creation of disability standards which would make rights and responsibilities in the field of education and training easier to understand.

In December 1995, the Ministerial Council on Education, Employment, Training and Youth Affairs agreed to establish a task force to oversee this task. Accordingly, in 1996, a task force led by the Australian government and comprising representatives of state and territory and non-government education and training authorities and providers, as well as the university sector and the DDA standards project representing the disability sector, commenced work on the development of a discussion paper that canvassed the feasibility and desirability of disability standards for education. This paper was endorsed by the

ministerial council as the basis for consultation in 1997 with education, training and disability stakeholders. Importantly, the consultations found that 80 per cent of respondents favoured the production of standards but wished to be consulted on any standards produced.

Work on drafting the disability standards for education commenced in 1998. Their development involved an iterative process to define essential concepts, operational principles and performance measures. In 2000, the ministerial council agreed that the draft standards as then developed should be used as the basis for broad consultation with education, training and disability stakeholders. Twelve thousand copies of the standards and guidance notes, as then drafted, accompanied by a consultation paper, were released for comment in August 2000. Following those consultations, the draft standards were further amended to take account of the feedback received.

In July 2001, the ministerial council referred the standards to its senior officials committee, the Australian Education Systems Officials Committee, for agreement on amendments and clarifications to the standards and development of a regulation impact statement. A working group, which was established to assist the senior officials committee and covered the stakeholder groups, produced further drafts of the standards. At its meeting in July 2002, the ministerial council expressed concern over the delay in finalising the draft standards and requested resolution of remaining legal and financial issues. Legal issues raised by education providers and other stakeholders were systematically addressed by Australian government officials, in consultation with the Australian Government Solicitor.

In July 2003, the ministerial council considered the outcomes of this analysis and the

final draft of the standards. While the ministerial council endorsed the form and content of the standards, the states, other than Tasmania and the ACT, indicated that their endorsement was subject to Australian government agreement to provide new, non-recurrent funding for professional development transition costs and to share unforeseen costs arising from the standards. The Minister for Education, Science and Training offered to make a contribution to the development of professional development materials to support the implementation of the standards.

As the meeting did not collaboratively endorse the standards, and consistent with the Australian government's position, Minister Nelson announced that, having exhausted all options for collaborative endorsement of the standards, the Australian government would move unilaterally to implement the standards, and the minister issued a media release to this effect. The decision was also consistent with the recommendation of the Senate Employment, Workplace Relations and Education Committee when it released its unanimous report, *Education of students with disabilities*, in December 2002. The committee was strongly critical of the failure of ministerial council to reach agreement on the standards and urged the Commonwealth to act unilaterally to bring the standards into force.

We may well ask: to whom will the standards apply and how will they operate? The disability standards for education will apply to government and non-government providers in all education sectors—preschool, school, vocational education and training, higher education, and adult and community education—as well as to organisations whose purpose is to develop and accredit curricula and courses. The standards clarify and elaborate on the existing obligations of education providers under the DDA in five key areas:



enrolment; participation; curriculum development, accreditation and delivery; student support services; and the elimination of harassment and victimisation. They also set out the rights or entitlements of students with disabilities, consistent with those of the rest of the community, to access and participate in education and training. The standards are accompanied by guidance notes, which provide additional explanatory material to assist the reader in interpreting and complying with the standards.

The standards recognise that, to overcome the disadvantage arising from their disability, students with a disability need to be treated differently in order to remove or reduce barriers to their participation in education. This is achieved through an adjustment, a measure or action that enables the student to enrol and participate in education on the same basis as students without disabilities. To identify and make an adjustment appropriate to a student's disability, providers are required to consult with the student or their associate. The consultation may also involve an independent expert opinion.

An adjustment is only required to be 'reasonable'—that is, to balance the interests of all parties affected, including the student with the disability, the education provider, the staff and other students. In addition, an education provider will not be required to comply with the standards if, and to the extent that, compliance would cause it 'unjustifiable hardship'. Through the concepts of 'reasonable adjustments' and 'unjustifiable hardship' the standards seek to balance the needs of students with a disability against the obligations on providers. At present, it is only possible for an education provider to claim unjustifiable hardship at the point of enrolment of a student with a disability. The Disability Discrimination Amendment (Education Standards) Bill 2004 [2005] includes an amendment to extend the defence of un-

justifiable hardship beyond the point of enrolment to also apply to the areas of participation, curriculum development, accreditation and delivery, and student support services.

Now that this long process has come to an end, the government has publicly stated its commitment to formulating and tabling the education standards when the bill has passed both houses. Once the amendments contained in the bill are passed, the Attorney-General will formulate the standards, which will trigger the statutory process in section 31 of the act. Subject to a notice of motion to amend the standards being given in either house of parliament, the date of commencement of the education standards is not less than 15 sitting days after they are tabled by the Attorney-General. Clause 2 of the bill provides that the amendments to the act will commence on a date to be fixed by proclamation. This will allow the commencement of the amendments and the education standards to be coordinated.

Beyond the parliamentary process, of course, the general public need to know what the education standards entail. The standards particularise positive steps that education providers will have to take, but implementation is a matter for individual education providers. To assist education providers to understand their obligations under the standards, plain English guidance notes have also been developed. As noted earlier, the draft education standards were negotiated with education providers and the disability sector in great detail over many years. Their development has been a collaborative effort involving representatives of state and territory governments and stakeholder groups within the education and training sector, including non-government education and training providers, universities and the disability sector.

Following formulation of the education standards, the Minister for Education, Science and Training will write to all schools across the country, informing them of the education standards and providing them with copies of the standards and accompanying guidance notes. Letters will also be sent to disability organisations to inform them about the education standards. The education standards and guidance notes will be made electronically available to the public by publishing them on relevant web sites, including those of the Attorney-General's Department, the Department of Education, Science and Training, and the Human Rights and Equal Opportunity Commission. In line with his offer at the 2003 ministerial meeting, the Minister for Education, Science and Training will contribute to the development of professional development materials to support the implementation of the standards. This has taken a very long time, and I am simply delighted that it has now happened.

On a more parochial note, I would like to note in this morning's press an article by the education editor of the *Age*, which notes:

The—

Victorian—

State Government has backed down on effective education funding cuts for children with disabilities by preparing to spend an extra \$7 million per year.

The article continues that last December:

... two days before school ended, eligibility rules for new students with disabilities were altered—

by the Victorian state government—

so that those entering specialist or mainstream schools this year would receive \$6000 to \$12000 less than they would have received last year.

This is an absolute outrage. The article continued:

Less funding meant fewer teachers and therapists and also threatened the viability of some specialist schools.

Yesterday, apparently, the Victorian Minister for Education Services announced that extra money would be made available. This is a notable backflip and one that I am delighted to note. The Department of Education and Training in Victoria is to contact every school with students who have been affected to make arrangements to adjust their budget as necessary. Although the education department in Victoria reckons an extra \$7 million will be needed, some estimates have put the funding shortfall at \$14 million, and it will be extremely interesting to note what, if any, further measures the Victorian education department and minister are going to take to rectify this situation.

The Association for Children with a Disability and its Chief Executive Officer, Mr Michael Gourlay, cautiously welcomed this change, but Mr Gourlay also said:

We will need to see the detailed workings of the formula, and the department's costings, before we're reassured that \$7 million is enough to achieve the objectives the Government has stated.

So it is interesting that it has taken a great deal of outcry by those groups affected to make this change, and in response the government has, some three months later, made a change which will at least restore some funding to students with disabilities, although it remains to be seen whether this is enough.

It is significant that the article notes that until yesterday the government's solution was to tinker with eligibility rules rather than to increase funding because, although in the last four years the state government has increased funding in the area by \$111 million, this has failed to match the growth in the number of students diagnosed with a disability. Now that the Commonwealth government has at last brought down the disability standards, it will be interesting to see if the state government proceeds to match those in

moneys provided for students with disabilities.

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (10.08 a.m.)—I would like to thank senators for their contributions to the debate on the *Disability Discrimination Amendment (Education Standards) Bill 2004 [2005]*. At the outset, can I say that the government is strongly committed to ensuring that all students are able to enjoy the benefits of education and training. The bill makes minor amendments to the Disability Discrimination Act that will ensure that the disability standards for education are fully supported.

This bill was referred for inquiry and report to the Senate Legal and Constitutional References Committee, which reported on 8 December last year. A majority of the committee recommended that the bill be passed without amendment and urged the government to introduce the final education standards into parliament as soon as practicable after the passage of the bill. The support for the passage of this bill is very positive.

The primary benefits of the disability standards for education will be the clarification and elaboration of the obligations of education and training providers in relation to students with disabilities under the Disability Discrimination Act and the provision of guidance on how to meet these obligations. Secondly, education providers will have increased certainty in knowing that compliance with the disability standards for education is a defence to a complaint made under the act's general provisions. Thirdly, persons with disabilities will benefit from clearer procedures in relation to the obligations upon an education provider to make reasonable adjustments and the need to consult with the student or his or her associate.

When adopted, the disability standards for education will clarify when and how a school

needs to consult with a student with a disability. For example, a parent might accompany a child with a disability to school, and the school might need to assess with the parent what, if any, adjustment would be necessary in order for the student to participate in the school and its programs on the same basis as other students. I have seen examples of this on visits to schools, such as the installation of ramps, or signs for those who have visual impairments. These are practical issues which really can address a student's disability.

It is important that there is a process of consultation with the student or the student's associate to decide whether any adjustments are necessary. This consultation would include an assessment of the likely effectiveness of the adjustment for the student with a disability as well as its impact on other students. The student's associate may not be a parent. In some cases, an associate might be a foster-parent, guardian, partner or another person with a genuine relationship, as set out in the act. Examples of the types of adjustments that might be appropriate include a student with a communication or learning disability being allowed extra time to complete an examination or providing assisting computer technology for a student with visual impairment, as I mentioned before.

Of course, most providers already make adjustments to meet the needs of students with disabilities. By clarifying the obligations of providers and how they can be met, the standards will ensure that all students with disabilities are able to participate in education on the same basis as other students. Given the importance of the disability standards for education to people with disabilities, it is important that this bill be passed as soon as possible. Passage in the Senate today is important to demonstrate support for these standards. It is an important milestone which will be well received by

education providers and the disability sector. The standards will go a long way towards removing unlawful discrimination against people with disabilities participating in education or training.

A number of issues were raised during the debate. Senator Carr raised some issues and I would like to address those. Firstly, I reject Senator Carr's assertion that the government has given scant regard to the costs borne by education providers. The standards and the amendments to the Disability Discrimination Act make clear that education providers will not be required to make adjustments for students with disabilities if those adjustments would cause the providers unjustifiable hardship. In addition, there should be no or very minimal additional costs incurred in implementing the education standards if providers are currently meeting their obligations under the act. Of course, the standards clarify existing obligations.

On 17 November 2004 my colleague the Minister for Education, Science and Training, Dr Brendan Nelson, introduced legislation containing a \$33 billion package of funding for Australian schools for the 2005-08 quadrennium. The funding includes an estimated \$2.1 billion for a new overarching targeted program for literacy and numeracy and special learning needs targeted at the most educationally disadvantaged students, including students with disabilities. This money will be shared among the government, independent and Catholic school sectors. The minister for education has also offered to contribute to the development of professional development materials to support the introduction of the standards. These are all very positive aspects—

**Senator Carr**—They are very weak!

**Senator ELLISON**—They are not weak, as Senator Carr asserts. Of course, Senator Carr raised some other issues. One of them

was: would the extension of unjustifiable hardship increase the disadvantage for students with disabilities? The government is keen to ensure that, once formulated, the education standards will reflect an appropriate balance between the interests of a student, or the prospects of a student, with a disability and the effects on the education provider of making an adjustment to accommodate that student. The amendment to extend the unjustifiable hardship defence beyond the point of enrolment will avoid the undesirable effect of discouraging educational institutions from admitting students with disabilities because they are concerned about the future potential unjustifiable costs of accommodating the students. In the *Finney v Hills Grammar School* case, the extension of unjustifiable hardship would have meant that the school could have admitted Scarlett Finney safe in the knowledge that, if future adjustments were necessary, it would not be required to make them, causing the school unjustifiable hardship.

In conclusion, the development of the draft disability standards for education—which will be supported by the amendments in this bill—are the product of extensive consultation with industry, government and disability sector representatives. The standards are a practical way of clarifying the requirements of the Disability Discrimination Act in the area of education. They will provide certainty for education providers as to their obligations under the Disability Discrimination Act and will clarify the rights of people with disabilities in relation to education and training. As I have said, this bill has wide support. Its passage should proceed as speedily as possible. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

**Third Reading**

Bill passed through its remaining stages without amendment or debate.

**BANKRUPTCY AND FAMILY LAW  
LEGISLATION AMENDMENT BILL  
2004 [2005]****Second Reading**

Debate resumed from 29 November 2004, on motion by **Senator Ian Campbell**:

That this bill be now read a second time.

**Senator LUDWIG (Queensland) (10.17 a.m.)**—The **Bankruptcy and Family Law Legislation Amendment Bill 2004 [2005]** will make a number of changes to the Bankruptcy Act 1966 and the Family Law Act 1975. The primary object of the bill is to address issues concerning the interaction between family law and bankruptcy law, which has created uncertainty as to the competing rights of creditors and the non-bankrupt spouse. Labor supports these aims and these changes. Some of these issues now contained within the bill have occupied for some time my time, the Senate's time and estimates' time.

The other objects of the bill are to provide a more effective means of collecting income contributions from bankrupts who do not receive their income as a salary or wage, and to prevent the use of financial agreements—that is, in relation to marriage—by bankrupts as a means of avoiding payment to creditors. In particular, those people who are not ordinary PAYE taxpayers have in the past had a greater propensity or capacity to make use of the inadequate interaction between family laws and bankruptcy laws by structuring their affairs in a way which has often left creditors and, of course, the tax office significantly out of pocket.

While the provisions of the government bill are sound to the extent they reach, the bill still fails to address the key bankruptcy

controversy that instigated this batch of changes in the first place—that is, the issue of high-income professionals using bankruptcy as a means of avoiding their taxation and other obligations. Year after year, it seems the government has baulked at the very issue it should have addressed. It botched the exposure draft of the bill by hastily preparing provisions that went too far and caught way too many people. It has rightly ditched those far-reaching provisions, but has not managed to replace them with anything adequate and leaves, as a weeping sore, the potential for high-income earners to rort the system. In fact, we know that it was a very small number of people—largely a few barristers, most of them based in Sydney, I understand—who ever used these loopholes, in any event. But there is no excuse for the government failing to draft provisions to catch these people. Even the Liberal Party in its pro-business, pro-entrepreneurial culture should not condone ripping off small business creditors and the tax office.

More particularly, for some time now—right back to the original inquiry that exposed this—between the tax office and ITSA, the Insolvency and Trustee Service Australia, we have at least understood that there were rorts going on. We then ended up with a report that did not provide, in my view, full details about what those rorts were. The explanation was given: 'We didn't want to encourage more rorts.' If they are still continuing, then this government is not fixing those problems. It still remains to this day that some of those rorts, potentially, could be going on. We do not know. It is up to the Insolvency and Trustee Service but, more particularly, this government to manage its legislative program to find out what is going on and then come back with fixes that actually fix the problem. It should not use a scattergun approach or a broad approach to try to

solve these things. It is a finite area. It needs considered, good work to track down and ensure that these things are dealt with appropriately.

Labor have also sought to bring forward some amendments to see if we can at least do what the government has failed to do. An earlier exposure draft of the bill was released by the Attorney-General in the weeks after he took on his job. It reflected the usual lack of attention that should have been drawn to this bill. When apparent weaknesses were quickly pointed out, he referred the bill to the House of Representatives Standing Committee on Legal and Constitutional Affairs for comment. The committee received 174 submissions and its report was tabled on 23 July 2004. Even surrounding that though were a number of shenanigans that went on that should not have gone on. I think those shenanigans can be sheeted home to the government side of the House. I do not intend to go into them now, but those who understand what went on will know it was a poor attempt by the Liberals to do some good work. They failed in my view.

What we find is that there were embarrassing inadequacies that were brought forward. The House of Representatives committee recommended that the amendments contained in schedule 1 of the exposure draft relating to tainted property and tainted money be abandoned. These provisions, although intended to cure the evil mentioned above, would have put at risk every legal and proper transaction of many small business owners and professionals over many past years. It is difficult sometimes to say it was poor drafting, because I do not like to blame the parliamentary counsel—the parliamentary counsel works on instructions, and those instructions usually come from the area that is concerned with the bill. So when I use the phrase ‘poor drafting’, it is not referring to parliamentary counsel, because they do a

wonderful job. I think that sometimes the problem is that either the department or the agency that then moves the bill forward does not encapsulate what they actually want to achieve or, alternatively—and this is the sad thing that can happen sometimes—the minister or the minister’s office then intervenes and tries to shift the direction from actually fixing the nub of the problem, or sometimes they just miss it and use a scattergun approach. We might never know how it is that these things sometimes end up with a broad based provision like in schedule 1 as it was. Most of the submissions really did highlight the problem again and again. I am not sure if there was not one that did not continue to complain about that schedule 1. Perhaps the only person that did not complain about it in that instance was the Attorney-General’s Department.

The committee recommended that the amendments of the exposure draft bill found in schedules 2, 3 4 and 5 be implemented. In fact, I think most of the submitters were in agreement that there was a problem that should be fixed and should be moved forward. Those matters addressed if not all of the problem then part of the problem.

Turning to the provisions in this bill, the government took the committee’s advice. This bill contains amendments designed to clarify the interaction between family law and bankruptcy. It seeks to address concerns regarding the uncertainty facing both bankruptcy trustees and non-bankrupt spouses when family and bankruptcy proceedings occur concurrently. Under the existing law, different outcomes can arise depending upon the order in which events occur—for argument’s sake, separation, bankruptcy, and distribution of property—which sometimes provides incentives for deception to occur as well, unfortunately. Schedule 1 of this bill sensibly enables concurrent bankruptcy and family law proceedings to be brought to-

gether to allow all of these issues to be dealt with at the same time because, of course, sometimes human beings do not work in sequential order and things like this can get out of order. In this instance, at least schedule 1 allows all the issues to be dealt with at the same time as they arise or as unfortunate circumstances befall individuals.

I note that concerns have been raised in some quarters—they were outlined in the House of Representatives committee report—about jurisdictional problems in having the Family Court deal with bankruptcy issues, because the Family Court does not have established expertise in this area. However, the government believes these issues are surmountable and that they are outweighed by the benefits that these changes will make, and an increased reliance on the Federal Magistrate's Court to deal with both matters should assist. I am sure that in the broader sense, by ensuring that bankruptcy and the division of property in marriage breakdowns can be handled by the court together, appropriate orders can be made so that the interests of all parties to the proceedings—the bankrupt, the non-bankrupt spouse and any creditors or other third parties—are equally and fairly taken into account. The experience I have had through estimates with the Federal Magistrates Service is that they will have the expertise within the overall place or develop it over time to ensure that fair and just outcomes are dealt with.

Of course, it is important that the law is flexible enough to deal with the many and varied circumstances and motives of parties that exist where bankruptcy and marital breakdowns occur concurrently—it is always a sad instance when that occurs—or at relatively similar times. Perhaps I do not need to provide a family history in this, but you can understand how bankruptcy can lead into marital breakdowns or marital breakdowns can lead into bankruptcy—unfortunately,

they do seem to be sometimes wedded together, to use an unfortunate phrase. It also ensures that the technical timing of separation or bankruptcy is not a definitive factor which may disadvantage one or the other of the parties—for example, a creditor or a non-bankrupt spouse—and the provisions remove the incentive for people to use family law proceedings inappropriately as a means of protecting family assets that might otherwise be available.

Schedule 2 of this bill seeks to address the problem whereby some bankrupts, particularly high-income fee-for-service professionals, do not operate bank accounts in their own name. This practice renders the existing contribution and collection scheme ineffective because it is based on a system of garnisheeing—that is, taking out a proportion of a bankrupt's income from their bank account. The proposed change gives the trustee the power in certain cases to require that a bankrupt pay all of their income into a bank account supervised by the trustee.

The proposed changes also provide for agreement to be reached between the trustee and the bankrupt on certain matters such as withdrawals from the account to meet the bankrupt's living expenses or additional withdrawals to meet unexpected liabilities. That is dealt with on the proviso that the balance of the account remains sufficient to meet the bankrupt's contribution amount—in other words, the amount is still sufficient to cover what is required. Decisions made by the bankruptcy trustee will be reviewable—firstly, by the Inspector-General in Bankruptcy and, secondly, by the Administrative Appeals Tribunal—so that the parties' rights are safeguarded in that respect. Labor supports these measures to ensure that the obligations of a bankrupt to their creditors cannot be circumvented simply by a quirk of their accounting procedures and banking choice. It is essential to the integrity of bank-

ruptcy law that the trustee is able to monitor any bankrupt's income to ensure that all available money is returned to creditors.

Schedules 3 and 4 contain changes that also go to the interaction between family law and bankruptcy. They narrow the definition of 'maintenance agreement' under the Bankruptcy Act to prevent individuals from using other contractual arrangements—namely, financial agreements involving marriage under part VIIIA of the Family Law Act—to defeat the claims of creditors. Of course, maintenance agreements under part VIII will not be affected, including the liability of one party to a marriage to maintain the other under section 72 of the Family Law Act. In effect, what people are trying to ensure is that the system can work effectively without disadvantaging parties in other areas. You have to appreciate that a lot of thought has gone into the operation of this and the interaction between family law and bankruptcy—because it is a difficult area—withstanding their failing in relation to the earlier provision of schedule 1 that I talked about.

The aim of these provisions is to ensure that a potential bankrupt does not push himself or herself into bankruptcy by the very act of transferring valuable assets to their former spouse under one of these agreements. These provisions will also introduce a new act of bankruptcy that will occur when an individual is rendered insolvent as a result of assets being transferred under a financial agreement. So they are also trying to work through areas where persons might come up with neat little ways or inadvertent ways of defeating the purpose of the legislation. Labor supports these amendments and hopes they will be effective in preventing the inappropriate use of family law to contrive transactions with an intention to avoid the assets coming under the control of the trustee in bankruptcy. We also hope that between the

family law, the relevant ITSA and the courts these circumstances can be monitored and a watching brief continued to see what happens to make sure there is no unfairness in the system, that justice is being done and being seen to be done, that those people who are obviously rorting the system can be singled out and that the system can take into consideration those people who might be unfairly caught by the system and the situation fixed where necessary.

Labor's amendments go to the rebuttable presumption of insolvency that we will deal with in the committee stage. I will be returning to the notable omission from this bill and Labor's suggested amendment to remedy it. We do not pretend that our amendments offer the answer to every use or abuse of the bankruptcy system but they seek to tackle an issue the government has failed to address despite extensive opportunity. We understand that the government will now be undertaking yet another consultative process in an attempt to address the anti-avoidance issues that have been raised consistently for the past four years—gosh, it has been that long—but we have a strong doubt about the government's bona fides in this area given the length of time that has elapsed since they first became aware of this problem and their continued and repeated failure to grapple with it properly. Nearly four years on they are now releasing a discussion paper on this issue. Of course, the Labor Party will cooperate and take a strong interest in this process as we have done over the last four years and will continue to do so. These are important issues and we will continue to pressure the government to address them. But we must place on the record that an appropriate and detailed response should have been developed in response to this problem well before now.

Labor have taken account of the history of this issue and included in its amendments the



presumption against the bankruptcy when they have an outstanding tax debt or where they have made a transfer of property but failed to keep adequate records. This is one of the methods discussed by the House of Representatives committee. It will not fix all of the problems but it goes some of the way. With the meagre resources of the opposition we put this forward as a serious improvement to that which the government continues to refuse to address. This amendment would ensure that the person who transfers assets to a third party at or below market value at a time when they proved to be insolvent could have action taken against them in recovering those assets. It will address the problem of high-income tax debtors abusing the present system and hiding behind difficult questions of proof that often face a creditor. Legitimate transfers will not be inappropriately caught—it is only a presumption which they can disapprove—but the evidentiary burden will shift to those who have done the wrong thing and will make it significantly easier for the trustee in bankruptcy to make out their case.

Labor propose that there be a rebuttable presumption of insolvency in certain circumstances—and they are set out in the amendments so I will not go through them in any detail now; we will deal with them in the committee stage. The sensible amendments shift the onus onto the very people whose actions are in question to ensure that these records are accurate and that their obligations to the Australian Taxation Office are fulfilled in the knowledge that if they fail in this regard there will be a presumption of insolvency against them. What flows from this presumption will bring the full weight of the law onto them if they have acted inappropriately while insolvent. Labor's amendments reduce the evidentiary burden on the trustee in such a way so that again the bankrupt cannot rely on the absence of proper

records to avoid scrutiny of particular asset transfers.

Our amendments act where the government has consistently failed to do so. They tackle the operational problems that exist in recovering assets from third parties under sections 120 and 121 of the act. The real difficulty, of course, in recovering assets from third parties who have received a transfer of assets is often not in the principle of the law but can concern evidentiary issues, that is, showing that assets were transferred to avoid them coming under the control of the bankrupt's trustee. These may, for example, be in circumstances where their account and record-keeping has long since disappeared. Changes consistent with Labor's amendments were suggested in several submissions to the House of Representatives inquiry into the poorly constituted exposure draft bill of the government, and these changes were viewed favourably by the committee.

By failing to adequately consult and develop a workable position on this matter the first time round and then failing to address this operational problem in the existing act through simple amendments, the government has ignored moderate and sensible changes that would have addressed legitimate problems in the existing law. Labor's amendments are an appropriate additional step that can and should be taken in making these changes, and they are appropriate to the problem they seek to resolve. Labor are willing to support the other measures in the bill. We do, however, urge the government to support Labor's amendments, which will further strengthen the law and tighten some of those loopholes which have allowed some high-flyers in the community to avoid tax or other obligations.

**Senator MURRAY** (Western Australia) (10.36 a.m.)—Before I proceed, has the Labor Party circulated those amendments?

**Senator Moore**—We are onto that now.

**Senator MURRAY**—Thank you. The **Bankruptcy and Family Law Legislation Amendment Bill 2004 [2005]** has three main objectives. Firstly, it provides a more effective means of collecting income contributions from bankrupts who do not receive their income as a salary or wage. Secondly, it prevents the misuse of financial arrangements as a means of avoiding payment to creditors. Finally, it addresses longstanding issues concerning the interaction between family law and bankruptcy. The arrival of this bill and its debate and, I am sure, its passage today are to be welcomed.

As the Democrat spokesperson for finance, taxation and corporate affairs, I have previously dealt with bankruptcy legislation and actively participated in Senate and joint parliamentary inquiries into insolvency laws. In that respect, I draw the minister's attention to the excellent report by the Joint Standing Committee on Corporations and Financial Services—a unanimous report—which we hope the government will respond to speedily. Change in the area of insolvency is much needed and should be fairly rapidly introduced.

There is a distinction between bankruptcy and insolvency, with the former referring to individuals and the latter referring to entities. Prior to 1990, there were fewer than 10,000 bankruptcies a year. However, in the financial years from 1997 to 2004 there were more than 20,000 bankruptcies per year. This is despite the strong economic conditions and the growth in personal wealth statistics that Australia currently enjoys. Back in 2002, when examining another bankruptcy bill, I noted the comments of Terry Gallagher, the Inspector-General in Bankruptcy, who said:

While it is no easier to go bankrupt now than it has been for many years, it is likely that excessive borrowing prompted by ready credit availability,

perceptions of attainable living standards and a lessening of the stigma of bankruptcy have contributed to this increase.

Those remarks are as apposite now as they were then.

There are much freer banking practices, particularly with regard to the ability of people to use home equity for current consumption and particularly with regard to credit card access and availability. I am sure every member of the chamber, both parliamentarians and advisers, experiences what my family do; that is, constant unsolicited approaches by credit card companies to take one out, to raise your limits and all that sort of thing. Frankly, that sort of marketing to the wrong people and in certain circumstances is a contributor to people getting into difficulty.

Like previous legislation, this bill proposes to address bankruptcy law. Regrettably, it certainly does not and certainly cannot sufficiently address the root causes of bankruptcy. One of the things it is not able to address is our society's problem with gambling and the delinquent approach of many states—thankfully not Western Australia—on the excessive availability of pokies and gambling outlets. It also does nothing and can do nothing to deal with unsolicited increases in credit card limits and the irresponsible promotion of consumer expenditure to people who cannot reasonably afford it. Members of the chamber would be aware that many of the charitable agencies are active in this field. One of the key areas they have to pay attention to is trying to encourage people to conduct proper family budgets and to restrain unwise expenditure.

In recent years, there has been a substantial increase in the number of bankruptcies. The government is attempting to encourage people to consider alternatives to bankruptcy and to clamp down on those who abuse the

bankruptcy system. I urge the department, the government and the inspector-general to continue to be very proactive in this area.

Turning to bad examples, what is particularly offensive are revelations of people who use bankruptcy processes improperly as a means of tax evasion. I am referring, of course, to the many Sydney barristers—who unfortunately have not been named and shamed, which they should have been—who do this. The often arrogant pursuit of law and assumption of high morality in our courts of those particular people are not reflected in the way that they conduct their private affairs. They impugn the reputation, credibility and good faith of the vast bulk of barristers and lawyers who, I am sure—and so we are advised by the tax office—do conduct their tax affairs appropriately. Those revelations have highlighted the need to ensure the integrity of the bankruptcy system. When leading lights in our society behave in such a way it is hardly a good example to other Australians.

It was pleasing to note in the most recent annual report by the Inspector-General in Bankruptcy on the operation of the Bankruptcy Act that only 47 of the insolvent debtors were classified as legal professionals. It is a number that seems to be falling as a result of the publicity and as a result of the actions of some of the law associations, which deserve our full support in getting rid of those practices. However, my disappointment in some recalcitrant members of the legal fraternity was reinforced when I saw the front page of last Monday's *Australian*. The newspaper reported that 30 per cent of barristers and half of all lawyers declared a taxable income under the top marginal rate of \$62,500 in the 2002-03 financial year. They then had some spokesperson say, 'Not as many of us as you'd expect earn that amount.' Yeah, right! They think we are

mugs. They deserve to be thoroughly audited as a result.

It was reported that the Second Commissioner of Taxation, Mr Gregory Farr, had earlier told a parliamentary inquiry into tax avoidance and bankruptcy that barristers were the worst tax avoiders compared to other professionals. In the parliamentary inquiry that examined this bill, Labor MP John Murphy correctly noted that 'any form of tax avoidance sends a poor message to the taxpayers of Australia' and that barristers were the 'high priests of society' and the talent pool from which future judges were chosen. It is surprising and disappointing to note the reports that one of the nation's top judges has not lodged a tax return for seven years and a further 65 were at least 12 months late. I address these remarks to the minister: I wonder if perhaps the government should consider such matters as grounds for removal from office and perhaps legislate accordingly. Let us punish people who judge others but hold themselves above the ordinary legal requirements that we all have to comply with.

More generally, in my opinion the culture of tax avoidance is encouraged by the government's overly generous provision of tax concessions, which encourage people to enter into negative gearing and pursue capital gains and other things. The thought that you can run losses on one side of your family balance sheet and cover those by your tax concession on another side has had the effect of getting some people into trouble, and God help them if the property market ever falls.

Getting back to the legislation before us, this bill will tackle some of the avoidance practices that have been used to manipulate Australia's bankruptcy laws. Unfortunately—and this just reflects human nature—the government's legislation cannot and will not put an end to some of the more outrageous abuses of the bankruptcy system by a

few high-income earners, but it certainly will improve the ability to lessen those practices. Australians are rightly angry to see some corporate or former corporate high-flyers and other high earners in our society claiming bankruptcy and avoiding creditors despite having obvious wealth at their disposal through some third-party entity or family member. The report on insolvency I referred to earlier from the Joint Standing Committee on Corporations and Financial Services noted that there is a practice in, for instance, the building industry whereby people set themselves up as phoenix companies, go bust and then repeat the process again and again. It is an attitude that has to be stamped out. In my state of Western Australia we have one particularly high-profile example of such a crook. He is a dreadful person who wanders the beaches of Cottesloe, swanking about his ability to have robbed ordinary Australians of their money, and now he can build mansions and claim investments all over the world. It is disgraceful that such people are able to get away with it.

I have heard the government's and the Labor opposition's words of condemnation of those practices, and I hope that all parties continue to bring forward measures to limit the prospects of such behaviour and to tighten the screws on people who behave like that. Such people should not be able to avoid creditors through artificial arrangements that secure their own financial wellbeing but result in great hardship to others who have entered into business arrangements with them in good faith. While it is true that the bankruptcy system must guard against abuse, care in addressing the abuses must not result in preventing access to bankruptcy by those with a genuine need to do so. We should always understand that bankruptcy laws were designed right from the very beginning as a safety net for those experiencing unfortunate circumstances in life. Most bankrupts today,

probably as always, are low-income earners who owe relatively small amounts of money. Those who genuinely require recourse to bankruptcy should not face unnecessary artificial barriers or be subject to unduly punitive measures. They should be given the chance of rehabilitation, and I think the government and this legislation are conscious of that.

We have had some correspondence from people in the small business community lobbying concerning changes to the bankruptcy laws that they think will adversely impact on the sector. However, those constituents are referring to the controversial first schedule of the Bankruptcy Legislation Amendment (Anti-Avoidance and Other Measures) Bill 2004. The House of Representatives Standing Committee on Legal and Constitutional Affairs conducted an inquiry into that bill. As I understand it, the government has not yet responded to the controversial aspects of that bill, but this bill contains the non-controversial aspects. The committee recommended that the non-controversial schedules—the ones contained in this bill—be passed, and the Democrats agree with that view.

The three areas covered by this bill are based upon recommendations of the joint task force report entitled *The use of bankruptcy and family law schemes to avoid payment of tax*. The task force consisted of officers from the Attorney-General's Department, the Insolvency and Trustee Service Australia, the Australian Taxation Office and the Treasury. I note that there are two minor technical differences between the original bill introduced in the last sittings and this bill, and the Democrats have no problems with those. There is also the Labor Party amendment to the bill. As I understand it, the amendment is a conversion of a recommendation of the Law Council. It creates a rebuttable presumption of insolvency if a person

who is bankrupt makes a transfer of property and either has outstanding tax returns or has failed to keep proper accounts. I think that kind of tough approach to people who have a bad history has merit and seems reasonable, especially since it has been considered at length by the Law Council, but I look forward to hearing the minister's views, and I will then see whether the Democrats should support it. But at this stage I am quite attracted to the idea put by Labor, as I understand it.

**Senator HUMPHRIES** (Australian Capital Territory) (10.50 a.m.)—The **Bankruptcy and Family Law Legislation Amendment Bill 2004 [2005]** is an important move towards consolidating confidence in Australia's bankruptcy laws. As members have already noted in this debate, it ensures that we progressively look to tightening provisions in both family law and bankruptcy law which permit people to avoid the payment of tax. In this debate, others have suggested that there is quite some way to go before everybody can be confident that all Australians are paying their fair share of the tax burden. Indeed, while laws remain very complex and procedures very involved to prevent the avoidance or evasion of tax, then clearly there will be much industry employed across this country, particularly by lawyers and tax accountants, to discover ways of avoiding those schemes. We need to be one step ahead of that, and I see this legislation as being one way of dealing with that. But I also think it is important to observe that this legislation is about ensuring that, when Australian families are unfortunate enough to be put in the position where they are interacting simultaneously with the bankruptcy laws and the family laws of this country, their position is clarified and the steps that they might take to deal with those situations simultaneously are clear.

This bill looks at the recommendations that were made by the joint task force report

on the use of bankruptcy and family law schemes to avoid payment of tax. That task force reported and the Attorney-General took steps to implement key recommendations of the task force through the tabling of a draft bill, which has in turn been considered by the House of Representatives Standing Committee on Legal and Constitutional Affairs. Although Senator Ludwig described as she-nanigans the proceedings of that committee, or the steps taken around that committee to progress this draft bill at that time, I note that nonetheless the committee did recommend substantially that at least schedules 2 to 5 of the exposure draft of the bill should proceed. That, indeed, is what is occurring with this piece of legislation.

The bill is designed to ensure that we are able to provide assistance to Australians who are in the position of having to resolve a family breakdown and deal with the settlement of property while at the same time perhaps setting up arrangements for the maintenance of a spouse. The bill is designed to ensure they have the assistance they require to know what they must do and how they must take steps to deal with that situation. At the same time it ensures that the arrangements are robust enough to prevent situations where those circumstances would give rise to tax evasion. It is a sad observation to make that some Australians, even in the midst of a family breakdown and the separation of the two parties, might nonetheless be united in a desire, to some degree, to mutually avoid the obligations they have to the tax man. These measures are designed to minimise the opportunity for them to do that.

As I have said, this bill substantially implements recommendations made in the joint task force report on the use of bankruptcy and family law schemes to avoid the payment of tax. The task force report is useful reading. It is important to acknowledge that it deals with a number of circumstances and,

in one sense, that work is not yet completed. There is more to be done to ensure that this area of the law is sufficiently sound to prevent the sorts of situations arising that members have referred to already in this debate.

The government has already acted on some parts of the recommendations of that task force. Amendments were introduced last year to the Family Law Act 1975 to put in place some of those recommendations. The amendments were designed to increase the certainty of standing for third-party creditors to intervene in family law property proceedings and, in certain circumstances, to seek to have some of those orders set aside or overturned. Giving creditors the power to step into those arrangements is an important part of being able to ensure that Family Court proceedings are not used to avoid obligations that lie elsewhere.

The [Family Law Amendment Bill 2004](#), to which I refer, also contains provisions to ensure that financial agreements are not entered into by couples for the purpose of avoiding creditors. This bill takes that process somewhat further. It is focused particularly on the powers and procedures that are available to courts in relation to family property and financial arrangements under the Family Law Act 1975. Perhaps the most significant provision in the bill is contained in schedule 1, which deals with amendments that clarify the rights of the bankruptcy trustee and the non-bankrupt spouse in a marriage and ensures that there is certainty as to the competing rights of those two parties. Clearly, the question of who has first call on the assets of a marriage in the event of a marriage breakdown—creditors or a non-bankrupt spouse—is a complex question and is not, as such, answered by this bill. It is answered, in a sense, by existing family law principles and by provisions made under the bankruptcy legislation.

A problem to date has been the fact that those two sets of laws have been administered by separate courts. We have bankruptcy law being administered in the Federal Court and we have the Family Law Act 1975 being administered in the Family Court of Australia or, in the case of Western Australia, the Family Court of Western Australia, and there has been a limited capacity for each of those courts to consider the jurisdiction of the other. Importantly, this bill creates a kind of cross-vesting arrangement to ensure that, where proceedings are in progress in one of those courts, it is possible for the legal provisions that would govern the operations of the other court to be considered at the same time.

Amendments in schedule 1 allow concurrent bankruptcy and family law proceedings to be brought together in a court exercising, for example, Family Court jurisdiction, to ensure that all the issues dealing with that breakdown are happening at the same time in the same court. It is achieved by giving courts exercising family law jurisdiction the additional capacity to consider bankruptcy matters and to facilitate the involvement of bankruptcy trustees and third-party creditors in family law proceedings. At one level that may not appear to be an appropriate step to take. To have a husband and a wife dealing with the assets of the marriage, or perhaps even the children of the marriage, in court and having their bankruptcy trustees or other creditors present at the bar table, so to speak, may not appear to be desirable in all cases. But it is important that families be able to deal in an effective and efficient way with all of their assets and all of the issues surrounding the breakdown of their marriage.

If they need to approach two courts or go through two processes to do that, or have separate sets of laws apply to their situation in a disjointed way, we run the risk of adding to their distress and contributing to a process which is not desirable. We need to make that

process more efficient, and essentially that is what the amendments to schedule 1 of this bill achieve. By merging the courts' jurisdictions in cases where there is jurisdictional overlay or overlap, the amendments will allow the courts exercising family law jurisdiction to consider, for example, both family law related issues and the non-financial contributions of a non-bankrupt spouse to the acquisition of family property.

There is, as I have said, the other side of the coin in this legislation. As I have said, it is about facilitating processes for parties to a marriage to settle their affairs at the end of the marriage. It is also about being able to ensure that parties who have an interest in the assets of that marriage are not disadvantaged by virtue of the breakdown of the marriage. The other side of that coin in schedule 1, therefore, is that the trustee in bankruptcy can be a party to property or spousal maintenance proceedings in the Family Court. The court will have jurisdiction over property that has become vested bankruptcy property—that is, the Family Court will be able to exercise some say in property which has effectively been covered by or affected by an order under bankruptcy legislation. The court will be able to make an order against a relevant bankruptcy trustee as part of the property adjustment, effectively allowing the trustee to stand in the shoes of the bankrupt spouse.

That obviously provides some certainty. Although it might not in all cases be a welcome intrusion, it provides some certainty to the parties. It offers procedures and protections to a non-bankrupt spouse. They will know where they stand in that event. As well—and this is an important qualification—the court can be on notice about the interests of creditors of a bankrupt spouse and can take those interests into account so that the order that is made at the end of the day does not prevent the legitimate creditors

of a bankrupt from obtaining access to assets of the marriage.

Schedule 2 of the bill goes on to establish an enhanced regime for the collection of income contributions under the Bankruptcy Act 1966. At the moment, the Official Receiver can collect contributions to repay outstanding creditors from a bankrupt wage earner's salary or bank accounts. They can garnishee those. That is an important part of ensuring that there is access to the sorts of income which Senator Murray referred to as too often not reaching creditors. The existing provisions, however, do not always give the bankruptcy trustee or the Official Receiver the kind of access which is necessary to ensure that there is full control over the income of, in particular, a self-employed bankrupt. When a person is employed, it is relatively easy to garnishee their wage or salary. When they are self-employed that is not so easy. So these amendments ensure that it is appropriate and possible for there to be a supervised account regime ensuring that the trustee is able to access all of the bankrupt's income. Effectively, the order can cover the account into which money is paid, from whatever source, and it is regulated in some way so that a certain amount can be made to reach the bankrupt and a certain amount can be diverted in an even-handed and effective way to meet the legitimate expectations of creditors of one sort or another.

The other two schedules to the bill, schedules 3 and 4, are amended as well in a way that will prevent people from using financial agreements under part VIII of the Family Law Act 1975 to effectively step around the obligations owed to creditors. This is done by ensuring that the existing clawback provisions in the Bankruptcy Act 1966 can be used to recover transfers that are made in bad faith that would have the effect of defeating the interests of creditors. The extent to which this occurs is a matter that we might specu-



late on. Nonetheless, it is undoubtedly the case that some financial settlements entered into at the end of a marriage do incidentally or deliberately have the effect of avoiding the obligations of parties to that marriage to pay tax or to meet their obligations to creditors. It is important that that not be allowed to continue. So the capacity of parties to a marriage to use financial agreements to prevent the recovery of those sorts of debts is a step taken in this legislation.

The amendments will also create a new act which triggers the operation of bankruptcy laws—a new act of bankruptcy. Where a person is rendered bankrupt or insolvent as a result of a transfer that is made pursuant to a financial agreement, that will amount to an act of bankruptcy. That then allows the bankruptcy trustee access to dispositions of property made after that act of bankruptcy is committed. Clearly, an act of that kind can be characterised as an act designed to avoid legal and financial obligations and, where that occurs, powers should be vested in the bankruptcy trustee to make sure that those assets do not escape the proper administration of such a position as the bankruptcy trustee.

Senator Ludwig, in the course of his comments on this bill, suggested that this was not a serious attempt on the government's part to deal with the abuse of bankruptcy laws in Australia. It seems to me to be just slightly ironic that, in the midst of debate about legislation designed to prevent people from abusing bankruptcy laws, that kind of comment can be made, but nonetheless I refute it. I think that the government is demonstrating its commitment to ensuring Australians do not avoid their obligations.

**Senator Ludwig**—It doesn't go far enough and you know it.

**Senator HUMPHRIES**—Senator Ludwig insists, obviously, that we have not

gone far enough in this legislation, but I note that in his remarks earlier today he failed to mention exactly what further steps the government ought to take. No doubt Senator Ludwig has a gladbag somewhere with wonderful ideas on how Australia can further crack down on the abuse of bankruptcy laws or family laws, but I do not know what those provisions might be and I look forward to him laying out in some way what those provisions might be.

For my part, the government is clearly taking steps to ensure that Australians do meet their obligations. The coalition government does not condone the evasion of tax and will take steps to ensure that Australians who evade their tax are properly prosecuted. If the laws are not tight enough to deal with cases where taxes properly owing are not paid then those laws will be tightened and followed through. The demonstration of that is in the bill before us today. I am very proud and pleased that the government is demonstrating once again that it has the capacity to respond to problems in the administration of our law and bring forward solutions to it in the form that the [Bankruptcy and Family Law Legislation Amendment Bill 2004 \[2005\]](#) represents.

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (11.10 a.m.)—I thank senators for their contributions to the debate on the [Bankruptcy and Family Law Legislation Amendment Bill 2004 \[2005\]](#). I say at the outset that the government welcomes the opposition's support for the bill. Senator Ludwig raised a number of issues and I will deal with each of those in turn shortly. This bill will assist in resolving the longstanding uncertainties in the interaction of bankruptcy and family law. The bill will provide creditors and non-bankrupt spouses with protections and procedures that were not previously available for the resolution of their competing claims, and this is



very important. Under existing law both creditors of parties in family law matters and spouses have faced uncertainty and complexity in navigating the interaction between bankruptcy and family law. This bill provides a concurrent jurisdiction so that competing claims in these areas of law can be determined at the same time and in the same forum. The bill will also address the misuse of family law schemes to defeat the interests of creditors and will allow a court exercising family law jurisdiction to recognise the interests of creditors in appropriate cases. Further, the bill offers an improved regime for the collection of contributions from bankrupts, particularly in cases where that has previously been difficult to enforce.

The amendments represent a considered response by the government to the recommendations of the 2002 joint task force on the use of bankruptcy and family law schemes to avoid tax. These are significant reforms that necessarily involve careful development and extensive consultation with experts in the areas of insolvency law, business and family law. This bill has also been subject to parliamentary scrutiny by the House of Representatives Standing Committee on Legal and Constitutional Affairs, and some family law amendments were considered by the Senate Legal and Constitutional Legislation Committee as part of a previous family law bill. The amendments in the bill have been further refined to take into account the recommendations of those committees responding to the views of significant stakeholders in the areas as well.

I mentioned some issues that Senator Ludwig raised. Senator Ludwig commented on the fact that the bill does not contain the anti-avoidance provisions which have previously been dealt with. Furthermore, Senator Ludwig criticised the approach—the general procedure, the drafting and the instruction of the drafters of this bill. The original bill was

released as an exposure draft to provide consultation with the community. The government listened to comments from the community, the stakeholders, and made a decision to withdraw the bill at that stage because of the unintended consequences that were being pointed to as a result of the consultation that took place. Senator Ludwig said that you need considered good work on this issue, and the government is the first to agree with that—it says that this is a complex area and we must get it right. In the last day or so we released a discussion paper which outlines options to strengthen the anti-avoidance provisions, and I believe that this is in keeping with the recommendations made by the House of Representatives Standing Committee on Legal and Constitutional Affairs. With this discussion paper we are concentrating on the anti-avoidance provisions. Senator Murray made a comment on this very issue and I want to assure him, the opposition and all those concerned that the government is totally committed to taking action to target high-income earners avoiding their debts and taxation. There is no question about that commitment.

What we need to do is get it right. That is why we have looked at the anti-avoidance part of the bill and put it to the community by way of a discussion paper. We are proceeding with those aspects of the bill which are very important—namely, the symmetry between family law and bankruptcy law. That is something I experienced as a legal practitioner before coming into the Senate. The fact is that those two areas of federal law operate in tension with each other, and sometimes that has consequences which I believe do not serve the interests of justice. This bill does have the commendable purpose of sorting out that aspect of bankruptcy law and family law. We are saying that rather than holding up these worthwhile objectives let us refine the anti-avoidance provisions by way

of a discussion paper and provide options for the strengthening of those anti-avoidance provisions. That is what we are doing. I understand that the opposition has amendments. We will deal with those, no doubt, along with other amendments in the committee stage. But this is a very important bill in the areas of family law and bankruptcy law and I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

#### **In Committee**

Bill—by leave—taken as a whole.

**Senator MURRAY** (Western Australia) (11.16 a.m.)—I have some general questions before we go to amendments.

**The CHAIRMAN**—We will take your general questions first.

**Senator MURRAY**—Thank you. I am happy if the opposition wants to ask general questions first, but I thought you might just be dealing with amendments. Minister, I have a couple of areas to question you on. The first concerns some remarks I made about some particularly high-profile individuals who are not completing their tax returns on time. That is not a hanging offence if it is a few months late or as a result of personal problems or personal issues. I am not concerned with that. I am concerned with serious failures to put in tax returns. I am, of course, referring to the recent press reports on judges' tax returns. In my view, that is an extremely serious matter. If a judge is seriously derelict in that area, does that constitute grounds for removal and, in your view, should it?

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (11.18 a.m.)—It really does depend on the severity of the situation, and Senator Murray alluded to that in his remarks. He stated that, if someone is a few months late with their tax

return, that is not a hanging offence. If a criminal offence were involved—for example, tax avoidance or another offence under the taxation laws of this country—that would be a very serious matter indeed. I think it is fair to say that, across the country, the removal of a judge is dealt with by parliament. It normally requires consideration by both houses. Queensland has a unicameral system; I am not sure what the detail is in each state and territory. But, in a general sense, I think it is accurate to say that the removal of a judge is dealt with by parliament. That question would have to be for parliament. But, if criminal conduct is involved, that is extremely serious. I would find it extremely difficult to think of a situation where a judge would be justified in continuing in his or her office if they were guilty of such a crime.

**Senator MURRAY** (Western Australia) (11.19 a.m.)—As I would expect, the minister anticipated the next step I was to take. If it is up to parliament—and, of course, I would expect ministers of justice or attorneys-general to initiate such action, because that is their proper role—parliament would need to know the details. The difficulty we have is that, under tax law and tax practice, the individual circumstances that a person has with the tax office are not public and are not made known to parliament. You could have a situation where the tax office might be aware that a judge has been a serial offender, if you like, in this matter—and I would go not just to the criminality of it but also to the practice; if you did not put in a tax return for five years, for example, as opposed to a few months, which I would not think is a hanging offence—but in those circumstances how would parliament ever get to know whether or not a judge had behaved in an utterly improper manner with regard to their tax affairs?

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (11.20

a.m.)—I took the last question to be on the basis of someone being found guilty. Senator Murray has now perhaps expanded the reference in the question by asking about a situation where conduct is not complained of by the tax office and there has been no charge laid. That, of course, is a more difficult situation, because you then have the presumption of innocence. Everyone is entitled to the presumption of innocence. If a person has not been charged and the authority that deals with the relevant jurisdiction has seen fit not to charge the person and to go beyond that and say, 'We adjudge their behaviour as being unfit for office,' then that takes us, I think, into more difficult waters. I think that, while someone occupies the position of a judge, their actions are relevant to that office, especially if they involve dishonesty. We saw recently in New South Wales a situation where a person's actions were looked at with regard to their ability to hold office.

Any behaviour which involved dishonesty would be relevant for consideration as to fitness for office—there is no question of that. But where you have a situation with tax, it is generally a matter between the taxpayer and the Australian Taxation Office. I have always found the ATO to be very rigorous, if I can put it that way, in enforcing tax law. I do not think the tax office errs on the side of generosity. It is not renowned for that. If it came to an agreement with a taxpayer as to how taxes should be paid and had a scheme of repayment, that generally is a matter between the taxpayer and the Australian Taxation Office. If Senator Murray is saying that we should pass some legislation to demand that the tax office submit all these details to the parliament, I certainly would not be keen on that. For very good reasons, taxpayers' affairs are kept confidential between themselves and the Australian Taxation Office. I take the point that Senator Murray is raising. It is a valid point but, where you do not have

a charge being laid or you do not have a conviction, you do have the presumption of innocence and that makes it all the more difficult.

**Senator MURRAY** (Western Australia) (11.24 a.m.)—Minister, you are quite right in your response. I am not suggesting that the government should consider interfering with very strong tax precedent that you leave the affairs of an individual as a matter between the tax office and that individual. But my concern is twofold. Firstly, we now have this in the public arena, and therefore it hangs there as a smell about all judges. I am absolutely certain that the vast majority of judges will be doing the right thing. It just adds to the community issue about people in high places who are bad examples. Secondly, the minister would know, as I do from my general reading, that if you look at parliaments around the world of our type and tradition, you will see that the removal of judges has not always related to criminal offences or even charges. It has related to conduct and improper behaviour as well. The parliament would always consider that in these matters.

I am not rushing to judgment here, but I urge the minister—and perhaps the proper person is the Attorney-General—to draw these matters to the attention of the chief justices, if he is able to do so, because I think it is an internal disciplinary function. I would hate to see in next year's report from the tax office that this is still an issue with the judiciary. I do not think we can just let it slide by and say that it is a matter between the tax office and the judges, because it is now in the public arena. That is my point in raising it.

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (11.26 a.m.)—I will undertake to pass that on to the Attorney-General. As I said, I understand the point that Senator Murray is making. Certainly there have been cases where there has

not been a conviction where action has been taken in relation to a judge, and I fully concede that point. I will undertake to pass it on to the Attorney-General.

**Senator MURRAY** (Western Australia) (11.26 a.m.)—Returning to the substance of the bill, this is my last set of general questions. Minister, if you note the *Bills Digest* No. 52 relating to this bill, the very last paragraph—and I would like a general response to these remarks—says:

However, as noted in the Main Provisions section of this Digest, some provisions seem to be unnecessary (such as **item 37 of Schedule 1**). Also, the language used in some provisions may be ambiguous and may need some refinement (such as **item 23 of Schedule 1**), and sometimes the reason for restricting the operation of certain provisions is unclear (see **items 53 and 59 of Schedule 1**).

It would be useful if you could put on the record your response to a fairly precise criticism.

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (11.27 a.m.)—What we can do is take those questions on notice and answer them in the committee stage but perhaps now proceed with the amendments. We have your questions in relation to the *Bills Digest*. If that is acceptable to the committee, we can proceed that way. The officials can start working on those questions in order, and we can return to them in the course of debating the amendments. I do not think there is anything out of order in relation to that. We can still have them accommodated in the committee stage.

**The TEMPORARY CHAIRMAN** (Senator Moore)—Is that acceptable, Senator Murray?

**Senator Murray**—It is.

**Senator LUDWIG** (Queensland) (11.28 a.m.)—The two amendments proposed are

on sheet 4505, and I will move them separately. I move opposition amendment (1):

- (1) Schedule 1, page 4 (after line 25) after item 6, insert:

**6A After section 121**

Insert:

**121A Rebuttable presumptions of insolvency**

- (1) A rebuttable presumption that a person is deemed to be insolvent arises for the purposes of sections 120 and 121 where it is established that the person:
  - (a) has made a transfer of property; and
  - (b) had an outstanding tax return, or outstanding tax returns, at the time the transfer of property was made.
- (2) A rebuttable presumption that a person is deemed to be insolvent arises for the purposes of sections 120 and 121 where it is established that the person:
  - (a) has made a transfer of property; and
  - (b) has failed to keep adequate books, accounts and records in accordance with section 270.

These matters are not new. They were raised during the hearings of the House of Representatives Standing Committee on Family and Community Affairs when a number of submissions received went to the idea of rebuttable presumption. It seems to be a sensible improvement, and Labor propose that we pick up on the matters that were raised in the submissions and that there be a presumption of insolvency in two circumstances: where the bankrupt has made a transfer of property while they have an outstanding tax return—you can understand the sense of that—and where the bankrupt has made a transfer of property and has failed to keep adequate books, accounts and records in accordance with their obligations. In these cases clearly there have been transfers made when they should not have been made. This is a way of ensuring that legitimate transfers are not

caught but that transfers that can be seen to be inappropriate are visited with a rebuttable presumption. That does not mean that it cannot be rebutted, but it certainly means it can be looked at. It would ensure that a person who transfers assets to a third party at a below market value at a time when they were proved to be insolvent could have action taken against them in recovering the assets. That would address the problem of high-income tax debtors abusing the present system. I would invite Senator Humphries to support this. He did indicate during the second reading stage that he would look at improvements that would catch high-income earners if Labor could come up with one. I invite him to support the amendment.

This amendment effectively shifts the onus onto the very people whose actions are in question to ensure that their records are accurate and that their obligations to the Australian tax office are fulfilled, particularly when they have failed to do so and there is a presumption of insolvency against them. What flows from that presumption will bring the focus of the law on them. Labor's amendment reduces the evidentiary burden on the trustee so that a bankrupt cannot rely on the absence of proper records to avoid scrutiny of particular asset transfers. Sometimes when businesses are starting to fail, their records might not be attended to and proper accounting procedures may not be followed. The failure could be deliberate or accidental—we do not know what is in people's minds when they start to go down that slope. We tried to look at this in a pragmatic way and say that in this instance the presumption should flow to a person. It is rebuttable, which means that people can explain to the authorities in a sensible way what happened and the problem they had. It may have been one of the reasons outlined in the amendment—for example, the books may not have been adequately kept—and people

get an opportunity to explain why that was the case. There could have been a flood, a fire or some other reasonable excuse, or it could have been sloppiness, which is inexcusable. In some instances, which I would hope not to see, people may have deliberately tried to hide or destroy records to avoid proper scrutiny.

There is a terrible onus on the trustee in all of this. At some point when we start to go down this track where a business is failing, the trustee has to make sure that their duties are discharged and that the act's duties are discharged by the person themselves. We are trying to ensure the interests of creditors—those people who have put money into the business in some way—and those who owe the business money, to ensure that the market works in an appropriate way. It is important to ensure that the process is transparent and open and that parties cannot hide behind legislation in efforts to avoid proper process. The amendment tackles the operational problems in recovering assets from third parties under sections 120 and 121 of the Bankruptcy Act. As I have said, Labor's amendment is consistent with what was suggested in several submissions to the House. It is a basic principle of law that the evidentiary processes are dealt with fairly. Rebuttable presumption is not a new concept. It certainly appears in the law in other areas. It is not breaking new ground. I would like the government to indicate that they are in a position to support this amendment, which goes to assisting the process and to ensuring proper scrutiny, and accept that it is an important additional step that could and should be taken in addressing the problems that it seeks to resolve.

We know that these proposals will tighten some of the loopholes. One of the disappointing things in this is that some years ago when I first started the process of trying to identify the high-flying barristers involved

with this—and I think that Senator Murray also was part of that process—I recognised that it is ultimately the taxman who was missing out. But when you spread the load, there were also creditors and others getting caught in the overall process where people were coming up with quite inventive shams and schemes to try to avoid paying creditors and the taxman what was due. As far as we could determine there were only small elements, although you do not know how broadly it sometimes stretches, but they were certainly expensive small elements who were not missing out on their share of the pie. That then creates equity problems between those people who could not share in such schemes and those who were benefiting quite unfairly from them.

This is one scheme, unlike some others which are very difficult to deal with, where if the government had been decisive many years ago and had sought to attack the problem once it was recognised it would not have continued to where we are now. Four years later we are looking at still more reviews to address the problem, even after this package of legislation. I think there have been two or three packages of legislation to try to address the problems that surround bankruptcy more generally but, in particular, the problems that were really exposed in the report.

Of course, a lot of the information about that has not been made public and we have not been able to assess fully the breadth and strength of it. Hopefully the next report will go some way to identifying some of these practices and will be public, or at least the submissions could be made public. I can advise the department that it should be aware that during the estimates process I will be seeking that those submissions and the findings of any review that is currently dealt with be made public when the report is completed, in an effort to try and put a bow around this and, in the end, try to find a point

where we can at least say we have been able to identify all those practices that are now going on, address them, fix the problem and move on, because it seems to me we have not been able to do that at this point.

**Senator MURRAY (Western Australia) (11.38 a.m.)**—I did indicate in my second reading remarks that I am inclined towards supporting this amendment, but I wanted to hear what the government had to say about it. I should just add to my earlier remarks before the minister responds. My understanding is as follows: in discussions between the Australian Taxation Office and a taxpayer, the tax office obviously has full powers to call for any explanation it wants, but once you move across to bankruptcy there is insufficient ability as yet to demand explanations on the record in every circumstance.

It seems to me that the law societies and law councils, from which this recommendation flows, have become extremely concerned about the bad reputation their profession has been subject to as a result of the activities of some. But the effect of that goes well beyond just that profession; it goes to all who might be in these circumstances. One of the things I like about the amendment—but of course it is in the process that you will see whether it works or not—is that an explanation should be required. If it is a reasonable explanation it will be accepted, but the requirement prevents ‘the dog ate my homework’ kind of response. A reasonable explanation is required for what might otherwise be a legal or accounting contrivance. On the face of it, I can see no problem with explanations being required in this form on these matters. That is my broad approach at first, but I want to hear what the minister’s response is to Senator Ludwig’s remarks and my own.



**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (11.41 a.m.)—In relation to the opposition amendments on sheet 4505, can I say at the outset, and this is covered in the discussion paper, that the government is of the view that these amendments—and I think Senator Ludwig might have said this; I do not want to get what he said wrong—would not be wholly effective on their own. I might just point to the issue that I have in relation to that first part of the amendment, 121A(1). On the advice that I have, that deals with:

- (1) A rebuttable presumption that a person is deemed to be insolvent arises for the purposes of sections 120 and 121 where it is established that the person:
  - (a) has made a transfer of property; and
  - (b) had an outstanding tax return, or outstanding tax returns, at the time the transfer of property was made.

The scenario I would bring to the attention of the committee is one where a person makes a transfer to a third party—maybe a spouse—then lodges a tax return, all in due course, with appropriate timing, knowing that they are going bankrupt, and sits back and does not pay any further tax. You then have a situation where the taxpayer has no tax return and has not paid tax. On the wording of this amendment, it is the government's view that the person in that case could avoid this section—that is, a person who has made the transfer, then puts in the tax return and then sits back and does nothing.

**Senator Murray**—Before bankruptcy.

**Senator ELLISON**—That is right—before bankruptcy. That is an issue that we have with this. I think that highlights the situation that we are talking about. With the discussion paper we have put out on these anti-avoidance provisions, we need to rinse through these proposals, if you like, and subject them to scrutiny to ensure that they will

be comprehensive in their application and not just address one particular aspect.

Senator Murray mentions another aspect: where there is a reasonable explanation and the person can deal directly with the Taxation Office, and once you are insolvent that is the end of it. It cuts down that dialogue, if you like. That is a different aspect and something I think I need to take on notice. I will get back to Senator Murray as to the government's view there and as to how it is canvassed in the discussion paper that we have put out. If I understand Senator Murray he is saying, 'Let's sort out the wheat from the chaff'—that is, if someone has an explanation and it is a reasonable one, don't send them under, but if they do not have an explanation, or it is not a reasonable one, then of course they go bankrupt. If I understand what Senator Murray was saying you need to have a dialogue to avoid unnecessary bankruptcy, if I can put it that way.

In the first instance, the government does not see its way clear to support this amendment. It believes the better way to go is to engage in the discussion process. There will be an open forum in April on the discussion paper. That will enable these issues to be canvassed in greater detail, rather than looking at this amendment in the committee stage here and saying, 'Let's use this as a means of addressing it all.' We think that there is an ability for someone to slip through the cracks here and avoid the intention of this amendment. Unless there is any further aspect, I cannot take it further than that, other than to say we will look at Senator Murray's last point about the dialogue between the taxpayer and the tax office and how that situation changes once you have the spectre of bankruptcy. We are still getting those answers on the *Bills Digest* too.

**Senator LUDWIG** (Queensland) (11.46 a.m.)—We recognise that it is not going to be

as comprehensive as what we might otherwise be able to provide, given our limited capacity to examine this area. Of course, one of the other problems that I identified much earlier in the whole process is that the government has not adopted what I would call an open and transparent process in investigating bankruptcy per se. If the government recalls, a number of reports were produced that were then not available to the broader public. They were not made public. They hid behind the idea that it might encourage others to pick up the same reports. I remember asking at estimates whether the government would provide the reports and any of the submissions. We can understand that as a rationale. The difficulty is that we do not know what was examined broadly by the ATO and the various other parties in the broad community.

Of course, what I am concerned about is that we then fall back into another iteration of reports—I think we are up to the fourth now—within this whole area. Bankruptcy has certainly been the focus for the last four years of significant work, but it does not seem to have gone quickly enough or far enough in the time to fix a lot of the problems. Our amendment goes to the situation where people do not lodge tax returns. We can identify that and put in the rebuttal presumption. It does not address the next issue—where they do lodge one.

That poses the question why, if the government know about it, they have not put a provision in the bill to fix the problem in the first place. Their answer to that is, 'We'll put it into another committee process and we'll see if we can address it sometime down the track.' Effectively, that means that, if they have an open forum in April and they report mid-year or after that, legislation may be drafted by the end of the year. We will be looking now at 2006 before we see some legislation again—six years since we started

this process. I find that unacceptable. If there is an interim step that can be taken—which we have put down now—then we should take it. That is the point that we are trying to make.

The government now complain that this amendment might not go far enough or that it might not cover all of the circumstances, but at least it covers some of the circumstances, in our view. It is certainly a better or a small step in this instance. If the government think that they have identified more areas, then I encourage them to fix some of these areas. They can certainly amend our amendment to cover those circumstances, if they can identify and recommend changes. We are always open to areas which might improve legislation. That is the whole purpose of us proposing the legislation in the first place. But I do not hear anything from the government about that. I hear, 'Let's go back to the tried and true committee. We'll go for another report.'

I ask the government will they in this instance make the report public when it is available and completed? Will the submissions that are called upon be made public? They have said that there will be an open forum. Specifically, let us take a look at the report that may be generated from the inquiry this time. There are a number of ways that you can generate inquiries. The best way is where you call for submissions and have terms of reference that are made public, as in a committee process. They are there for people to read and for people—usually counsel assisting, some person assisting the inquiry, the investigative team or the report writers—to then go through a process to come up with their conclusion. Then you have a report.

The ALRC and a number of other renowned bodies within Australia in fact adopt that process. Sometimes they write a paper about it first and then they proceed down that



track. So you can look at the iterations to see how they got to the end point. It is instructive and helpful. You can then look at some of the reasons and some of the counterarguments. But in this instance the government, as in the previous reports, will not follow that path. So sometimes you are left with a lack of confidence in the outcome, in how they arrived at some of the end points and the final amendments that they made. You wonder whether there could have been a more comprehensive amendment but it was not picked up, because it was not one that found favour with the big end of town or with the small end of town, for that matter. That always worries me when that process occurs. We are going to continue to insist that this amendment is one step in the process and that the government should pick it up.

**Senator MURRAY** (Western Australia) (11.51 a.m.)—Thank you, Minister, for your early response to my remarks. At present, a reasonable or unreasonable explanation remains a matter for the tax office. It is a private matter. But when you are deemed to be insolvent or moving towards bankruptcy it becomes the subject of a different law and a different jurisdiction, and that is why you need a reasonable explanation process in that area as well.

It seems to me from what you have said, Minister, that, whether or not this amendment passes or whether or not it is accepted by government, it will continue to be the case that a person can transfer property and put in a tax return—either before or after they have transferred property—and thereafter sit back and not put in tax returns. In other words, that situation would not be altered by this amendment. What this amendment does address, based on what you have said, is at least part of the issue and part of the problem. I am not sure it is a negative. I accept the view that it is not sufficient—that

it does not cover all the bases—but I am not sure it is a negative.

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (11.53 a.m.)—That is the issue, and that is the very reason why we are seeking to strengthen bankruptcy anti-avoidance provisions. I have a copy of the discussion paper here and I think I can touch on some of the comments made by Senator Ludwig. It states very clearly at the outset:

The purpose of this paper is to seek your views on options to amend the *Bankruptcy Act 1966* (the Act) to address concerns about some high income earners using bankruptcy to avoid paying their debts. The Government remains determined to ensure bankrupts who actively seek to avoid paying their debts are brought to task without causing unintended consequences for legitimate asset protection arrangements.

Further down, it refers to the task force that Senator Ludwig mentioned. It says:

The Taskforce identified the problem of a small but significant number of high-income debtors, typically high earning fee-for-service professionals, who use bankruptcy to avoid paying their taxation and other debts. These debtors have the ability to pay their debts but instead fund a lifestyle made possible only through the non-payment of debts and the build up of assets in the names of related parties.

That is on the first page of the discussion paper, and it is absolutely on point in relation to anti-avoidance. But I stress again that I believe the discussion paper, which goes for five pages, provides a thorough basis for dealing with this complex area in a targeted fashion so that we can come up with comprehensive amendments which will remedy those problems we have identified.

Senator Ludwig has said that the amendment is more of an interim measure, and he accepts that it is not comprehensive. The government's view is that rather than do it piece by piece, which could result in unin-

tended consequences, let us do it though a process of a discussion paper on point—a forum. At the back of the discussion paper it says to contact David Bergman, adviser, Policy and Legislation, Insolvency and Trustee Service Australia—GPO Box 8281 Canberra, ACT 2601 or email at david.bergman@itsa.gov.au—by 31 March. That is a public consultation process. It is one which is transparent.

At the conclusion of that, ITSA will determine what appropriate amendments are necessary. A bill will then be put to the parliament. There will no doubt be Senate scrutiny through the committee process and House of Representatives scrutiny through their committee process, as we have seen with this bill. It will be put on the crucible, so to speak. I certainly reject that this is not a transparent process. It is one to flush out the problems in a very complex area. We realised this when we put out our bill in this more general application. We realise that the amendments we are proposing today are ones which were highly desirable and much supported. Let us go ahead with those. But on the difficult area, to ensure that we get it right, let us have a discussion paper and bring it back as a bill which deals with anti-avoidance provisions per se. The tenor of this document makes no bones about it: the government is determined to address those anti-avoidance practices. I have a copy here should senators want one.

**Senator Murray**—Has that been tabled?

**Senator ELLISON**—I will gladly table it.

**Senator LUDWIG (Queensland) (11.57 a.m.)**—I could not leave it unsaid that, if the minister recalls the process that we went through last time, it took an FOI request to finally beat out of the government the report that we were seeking. The government then made it available. That is my recollection of

it. I hope to be corrected. Even then, it was deleted in a certain fashion. It was completely unacceptable, and it took some time between the start and finish of it. As I said earlier, the reason was that they thought that the types of practices might be reiterated. But they could always do what the tax office does—they put dates on certain issues and say, ‘Anyone who contravenes this past this date is in trouble.’ That way you can isolate these things and move forward. This way, unfortunately, the government are saying, ‘Trust us again. We will take it away.’ That is effectively what came out of schedule 1, which was not acceptable, and which came out of an earlier report. They are saying, ‘We will go away and have another look at it. We are not going to commit to telling you that the submissions and the report will be available. We will come back at some stage in the future and hopefully address these terrible reports—these instances which might be going on.’

If I can do something now I would rather do it now. The process has gone on. I will not put my office to trouble, but I think the first time I identified it with a press release was Christmas 2001, if not Christmas 2000—I am happy to be corrected on that. It was effectively about high-flying barristers having a good Christmas on the tax man. This is not something new. I lack confidence that the government will be able to address this quickly and decisively. They do not seem to have been able to do that up to now. This one amendment, although a small amendment, is designed to assist in the overall process. I remain unconvinced.

Question agreed to.

**Senator LUDWIG (Queensland) (12.00 p.m.)**—I move opposition amendment (2) on sheet 4505:

(2) Schedule 2, page 23 (after line 13), after item 2, insert:

**2A At the end of section 139A**

Add:

- (2) Without limiting the applications or orders which may be made in accordance with subsection (1), a trustee may apply to the court and the court may order that a person who is bankrupt is not released from a tax debt which the person owes.

Note: *tax debt* has the same meaning as in section 8AAZA of the *Taxation Administration Act 1953*.

This amendment is designed to ensure bankrupts cannot use bankruptcy to avoid outstanding tax debt. It will extend the liability beyond the period of bankruptcy. This is another measure Labor propose to crack down on high-flyers using bankruptcy laws to avoid tax obligations. We make the point that the high-flyers must know that bankruptcy is not a way out. Labor are acting where we think in this instance the government is not. I will not go through the debate of my last speech but it equally applies. We are not confident that the government will address this in a serious way in a short period. We accept that there are requirements to continue with the process and we understand the government has given that commitment. Perhaps my comments were a bit negative in respect of the overall process; however, I do encourage the government to continue, but it should continue in an open and transparent way. In the interim, some action is better than no action.

**Senator Murray**—And a short time frame.

**Senator LUDWIG**—And a short time frame. Thank you, Senator Murray.

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (12.01 p.m.)—The government oppose this amendment. An amendment providing that a bankrupt could remain liable for tax debts follow-

ing discharge from bankruptcy would be inconsistent with government policy, which originated with the previous Labor government. That policy, to remove priorities and special treatment for tax debts, has been in place for the last 15 years. It is based on the principle that you all stand in line in relation to a bankruptcy. The principles of that are well established. To say that you can be discharged from bankruptcy but there is still a debt is really not in accordance with the longstanding principles we have applied to bankruptcy. Certainly, there is a priority amongst creditors but that operates within the bankruptcy, not outside of it. That is, if a person goes bankrupt, they are discharged subsequently. That is the way the law works. We do not see any reason to change that policy. It is one that has been longstanding.

**Senator MURRAY** (Western Australia) (12.02 p.m.)—At the emotional level I have some sympathy with this approach. At the emotional level you would almost like it to be retrospective, which of course it is not. The minister is correct. You really have to pay attention to the principles, and priorities in this matter are arguable. For instance, if you were to argue priorities you might find that children who have not yet reached a proper age, other creditors or persons with a close relationship with the bankrupt might well have been more prejudiced than the tax office. I can conceive of other priorities which might take precedence. As much as I am emotionally sympathetic to this I do think we have to stay with the principles that have been well established in bankruptcy law. I assume, Minister, that this area still falls within the broad ambit of your review?

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (12.04 p.m.)—I cannot see why this could not be dealt with in the ambit of the discussion paper, particularly in relation to anti-avoidance. One can readily think of the relevance that

this would have to anti-avoidance provisions. I do have some advice on the question Senator Murray asked in relation to the *Bills Digest*.

**Senator MURRAY** (Western Australia) (12.04 p.m.)—I just want to finish the subject at hand before the minister moves on to my questions, if that is in order. Minister, I think we should deal with the amendment and get it out of the way before you answer the questions. The reason I asked whether this matter could be dealt with in your review is that it seems to me that if there are issues of priorities that need to be considered—and there might be some if the government were to change policy in the matter—we need to more clearly assess which priorities might come first. I do not necessarily think that the tax office would always rank first. That was my point about it being considered.

Question negatived.

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (12.05 p.m.)—Senator Murray raised some questions in relation to the *Bills Digest*. The first was that some provisions seem to be unnecessary, such as item 37 of schedule 1. The advice I have is that the addition of ‘and’ at the end of these paragraphs of subsection 79(4) are necessary to ensure that these provisions are read cumulatively. In relation to the next question, I quote the *Bills Digest*:

... the language used in some provisions may be ambiguous and may need some refinement (such as **item 23 of Schedule 1**) ...

The advice that I have is that the digest suggests that it is not clear from the language of item 23 whether it applies to a bankrupt applicant for spousal maintenance or a respondent or both. The provision allows for either party to a marriage as applicant or respondent in spousal maintenance proceedings or

both parties being a bankrupt. The language is necessarily open.

The next part of the query dealt with the *Bills Digest*, which said:

... and sometimes the reason for restricting the operation of certain provisions is unclear (see **items 53 and 59 of Schedule 1**).

The advice I have is that these provisions relate to the court’s powers in financial matters to make executory orders. The provisions are so drafted because in this case the bankrupt may need to execute documents or take action personally, whereas the other provisions relate to property that is vested in the bankruptcy trustee. That deals with item 53. In relation to item 59, this provision deals with the court’s injunctive powers. The provisions are designed to restrain the bankruptcy trustee from disposing of property that is the subject of an insolvency agreement or a bankruptcy. We believe the provisions make it clear that the trustee in either case is prevented from disposing of property and that the injunction is not subject to the terms of the personal insolvency agreement. That is the advice I have in relation to the *Bills Digest* and these amendments and the questions raised by Senator Murray. If there are any further questions, perhaps I could arrange for a briefing from the officials. Senator Murray might want that and I am more than happy for that to be done. But that is the advice I have.

Before I move the government amendments, I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 8 February 2005. I seek leave to move government amendments 1 and 2 together.

Leave granted.

**Senator ELLISON**—I move government amendments (1) and (2):

- (1) Clause 2, page 2 (table item 4, column 1), omit “and 4”, substitute “, 4 and 5”.
- (2) Page 44 (after line 23), at the end of the bill, add:

**Schedule 5—Additional amendments relating to the interaction between family law and bankruptcy law**

***Family Law Act 1975***

**1 At the end of section 79**

Add:

- (10) The following are entitled to become a party to proceedings in which an application is made for an order under this section:
  - (a) a creditor of a party to the proceedings if the creditor may not be able to recover his or her debt if the order were made;
  - (b) any other person whose interests would be affected by the making of the order.

**2 At the end of section 79A**

Add:

- (4) For the purposes of this section, a creditor of a party to the proceedings in which the order under section 79 was made is taken to be a person whose interests are affected by the order if the creditor may not be able to recover his or her debt because the order has been made.

**3 After section 79E**

Insert:

**79F Notifying third parties about application**

The applicable Rules of Court may specify the circumstances in which a person who:

- (a) applies for an order under this Part; or
  - (b) is a party to proceedings for an order under this Part;
- is to give notice of the application to a person who is not a party to the proceedings.

**4 After section 90D**

Insert:

**90DA Need for separation declaration for certain provisions of financial agreement to take effect**

- (1) A financial agreement between 2 people, to the extent to which it deals with:
  - (a) how, in the event of the breakdown of the marriage, all or any of the property or financial resources of either or both of them at the time when the agreement is made, or at a later time and before the termination of the marriage by divorce, is to be dealt with; or
  - (b) the maintenance of either of them after the termination of the marriage by divorce;

is of no force or effect until a separation declaration is made.
- (2) A separation declaration is a written declaration that complies with subsections (3) and (4).
- (3) The declaration must be signed by at least one of the parties to the financial agreement.
- (4) The declaration must state that:
  - (a) the parties have separated and are living separately and apart at the declaration time; and
  - (b) in the opinion of the parties making the declaration, there is no reasonable likelihood of cohabitation being resumed.
- (5) In this section:

***declaration time*** means the time when the declaration was signed by a party to the financial agreement (or last signed by a party to the agreement, if both parties to the agreement have signed).

***separated*** has the same meaning as in section 48 (as affected by section 49).

**5 After subsection 106B(4)**

Insert:

(4AA) An application may be made to the court for an order under this section by:

- (a) a party to the proceedings; or
- (b) a creditor of a party to the proceedings if the creditor may not be able to recover his or her debt if the instrument or disposition were made; or
- (c) any other person whose interests would be affected by the making of the instrument or disposition.

These government amendments insert a new schedule 5 into the [Bankruptcy and Family Law Legislation Amendment Bill 2004 \[2005\]](#) and provide that the amendments in schedule 5 will commence 28 days after royal assent. The proposed new schedule 5 to the bill contains five items of amendments to the Family Law Act 1975. Like other provisions in the bill, these amendments implement key recommendations of the joint task force report on the use of bankruptcy and family law schemes to avoid payment of tax and are designed to further ensure that family law procedures are not used to defeat the interests of third-party creditors.

In particular, the amendments firstly provide for the rights of third-party creditors in proceedings under part VIII of the Family Law Act, being family property and spousal maintenance proceedings, and secondly require a separation declaration to be made by parties to a binding financial agreement that deals with post-separation financial arrangements before those aspects of the agreement can come into effect. These provisions were previously contained in part 19 of the Family Law Amendment Bill 2004. That bill was first introduced in the House of Representatives on 1 April 2004 but lapsed when parliament was prorogued during the 2004 election period. It is expected that the Family Law Amendment Bill will be reintroduced in the autumn 2005 sittings.

The reason for the transfer of these provisions from the Family Law Amendment Bill 2004 to the [Bankruptcy and Family Law Legislation Amendment Bill 2004 \[2005\]](#) as government amendments is to consolidate all legislative reforms dealing with the interaction of bankruptcy and family law to ensure that all related reforms proceed together. I suppose that last aspect is the most crucial part of the reason for these amendments—to ensure that both family law and bankruptcy move forward together in relation to these reforms. I commend these amendments to the committee.

**Senator LUDWIG (Queensland) (12.12 p.m.)**—We note that the amendments were originally included in part 19 of the Family Law Amendment Bill 2004, which was introduced into parliament on 1 April 2004—always try a different date from that, in my view. The original Senate Legal and Constitutional Legislation Committee unanimously supported the provisions we now have before us. The government did not proceed with the passage of this bill last year and has now chosen to incorporate in the [Bankruptcy and Family Law Legislation Amendment Bill 2004 \[2005\]](#) the part 19 amendments, which attempt to prevent concocted financial agreement or marriage breakdowns being used to avoid obligations to creditors. It also includes a provision to entitle a third party to become a party to proceedings where their interests in fact may be affected.

The revisions require parties to sign a separate declaration stating that there is no reasonable likelihood of them resuming cohabitation. It is aimed at protecting the rights of third-party creditors by preventing debtors who in fact are otherwise in ongoing marriages from transferring assets to their spouses by way of sham transactions designed to defeat the interests of genuine creditors. We note that these amendments include a minor clarification to section 79F



which was not included in the original form of this bill. It now incorporates a suggestion by the Law Council of Australia which was unanimously supported by the Senate Legal and Constitutional Legislation Committee report.

That highlights one of the areas which I always comment on during these committee stages of bills, especially where committees come up with recommendations that the government adopts. I congratulate the government on allowing the bill to be referred to the committee and on subsequently seeing the sense of what came out of the committee process. It is always worth noting that it is a significant process. It does sometimes delay bills for a period while the committee process is gone through but it does allow public scrutiny and people to make submissions. In many instances—and this is just one of them—there are times when, even with all the expertise of government and sometimes the will of the opposition, some things are not seen clearly as some submitter might say, and they clarify and add to the process. In this instance, the Law Council of Australia provided an improvement to the bill which was adopted by the government.

I think that is the true worth of the committee process. In my view, it is sometimes worth the time and effort that is put in by everybody in that process to ensure that the result that comes out of it means that there is an improvement in legislation, that there is an improvement in the process for the people who have to finally deal with the legislation and that we do not end up with people coming back to the government and saying, 'This bill which is now legislation might work better if we have an amendment.' There are then minor amendments and you sometimes end up with minor consequential amendment legislation down the track to try to fix these things. So it is one of those areas where I

think the machinery of government works better when that happens.

We accept that the provisions which have previously been introduced will attract bipartisan support. I think the government has met at least the intention of trying to improve the bill in this instance. However, the process is sometimes a little disappointing. It would be appreciated if the government could provide these matters on a better time line. I do not know whether it is mismanagement on behalf of the government—and I do not like to bandy that phrase around too easily—or whether it is incompetence or a difficulty in being able to put all your ducks in a row and move them through, but it never ceases to amaze me that we sometimes end up with the government looking like it is acting in a bit of a loose way in how it works through this process rather than with a comprehensive, clear strategy from go to whoa.

We have had a number of different reports in this area, with those reports being finalised and another one on its way. You sometimes think that, if we had started it in 2000-01 and dedicated ourselves to getting all the parties around the table in a strategic way and working through what needs to be done, we would certainly have got there a lot earlier. I suspect we still are running the race and we have not even got there yet. Indeed, if we had been able to see some of these amendments a bit earlier, then we could have had a much more pragmatic approach to them and taken a bit longer in the committee stage than we otherwise have today.

Labor will support these amendments, as we understand that they are necessary, but we again call on the government to get its act together in this area. It is one of those areas where I understand Minister Ellison's position in all of this. I am not sure whether I can sheet it home to him, but if I could I would. In this instance, the only blame I can lay on

him is that, although we have been dealing with it for a long time, perhaps he needs to address it a little more closely to get it moving.

**Senator MURRAY** (Western Australia) (12.18 p.m.)—The Democrats support the amendments.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

### Third Reading

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (12.18 p.m.)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

### **SUPERANNUATION SUPERVISORY LEVY IMPOSITION AMENDMENT BILL 2004**

### **AUTHORISED DEPOSIT-TAKING INSTITUTIONS SUPERVISORY LEVY IMPOSITION AMENDMENT BILL 2004**

### **LIFE INSURANCE SUPERVISORY LEVY IMPOSITION AMENDMENT BILL 2004**

### **GENERAL INSURANCE SUPERVISORY LEVY IMPOSITION AMENDMENT BILL 2004**

### **RETIREMENT SAVINGS ACCOUNT PROVIDERS SUPERVISORY LEVY IMPOSITION AMENDMENT BILL 2004**

### **AUTHORISED NON-OPERATING HOLDING COMPANIES SUPERVISORY LEVY IMPOSITION AMENDMENT BILL 2004**

### **FINANCIAL INSTITUTIONS SUPERVISORY LEVIES COLLECTION AMENDMENT BILL 2004**

#### **First Reading**

Bills received from the House of Representatives.

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (12.20 p.m.)—I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

#### **Second Reading**

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (12.20 p.m.)—I move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in *Hansard*.

Leave granted.

*The speeches read as follows—*

### **SUPERANNUATION SUPERVISORY LEVY IMPOSITION AMENDMENT BILL 2004**

The Government is committed to ensuring that prudential regulation and the consumer protection functions associated with prudentially regulated entities are adequately funded and that the regulators have adequate resources and expertise to perform their functions properly. Part of this commitment is ensuring that the framework for setting the Financial Sector Levies is up to date and continues to raise the necessary funding from industry in an equitable and sustainable way.

As such, the Government commissioned a 'Review of Financial Sector Levies' to evaluate the arrangements for determination of levies imposed on the financial sector that support the operations of the Australian Prudential Regulation Authority, and certain operations of the Australian Securities and Investments Commission and the Australian Tax Office.



Fundamentally, the task of the Review was to consider how the burden of funding the relevant regulatory activities might best be distributed between all of the regulated entities. At a broad level, the central issues involved the horizontal distribution of levies between different institutions or industry sectors and the vertical distribution between larger and smaller institutions.

The Review was chaired by the Treasury and undertaken jointly by Treasury and APRA in consultation with ASIC and the ATO. Extensive consultation was undertaken with industry, including roundtable discussions and consideration of formal submissions made to the Review.

The Review and the Government's response were released in May 2004. Several key recommendations were made to alter the existing Financial Sector Levy framework. The recommendations aim to ensure that levies are collected fairly and efficiently between industry sectors and from all entities within industry sectors. They also aim to ensure that APRA, in particular, has a sustainable funding base that is able to meet any changes in APRA's future budget requirements equitably and efficiently. In general, the recommendations allow increased flexibility in the way levies are collected to ensure that these goals can be met. This bill and the other six levy Bills that are being considered concurrently contain the legislative changes necessary to implement the new levy setting framework.

The Bill proposes that there be two separate elements to the determination of financial sector levies. The first element has a cost of supervision based rationale with a percentage levy rate on assets subject to minimum and maximum amounts. This element is essentially the same structure as the existing levy framework where the levy determinations are based solely on the cost of supervision. The second, and new, element reflects the potential financial system impact of an entity and addresses vertical equity concerns. It will be a low percentage levy on assets, without a minimum or maximum amount for individual regulated entities. The Government proposes to set levies such that the portion of the total levies raised from this second element will be between 10 and 30 per cent of APRA's total levy funding requirement in each year.

These arrangements recognise the particular importance of regulating the largest institutions in our financial system as the larger the financial institution, the greater the likely impact on the financial system and economy in the event of it facing financial difficulties or failing. The relationship is not one which tapers off in a way that would make a cap on the amount paid by an individual institution appropriate. Therefore the Government considers that system risk can be taken into account through a single levy rate applied to the assets of an institution and without a floor or cap.

In addition, because the current cap arrangements involve zero marginal levy rates, once the maximum levy cap is reached many consider that these arrangements breach vertical equity norms. For example, the levy amounts paid by the largest banks are little more than the levies paid by the much smaller and less complex banks. The new element of the levy determination framework seeks to address this inequitable outcome.

The Bill will allow changes in the levy arrangements for many of the smallest APRA regulated superannuation funds—referred to as SAFs—by separating their levy determinations from those of other superannuation funds. This recognises that it is common for a single approved trustee to manage a large number of SAFs and for the main focus of prudential attention to be on the trustee rather than each of the individual funds. In particular, this will allow SAFs to be levied at lower minimum rates than other superannuation funds.

More generally, through its response to the Review the Government has ensured that changes to the levy determination arrangements will not lead to increases in the amounts paid by the smallest financial institutions. This, in part, reflects the Government's acceptance of the Review's conclusion that system risk and vertical equity considerations, as well as cost, should be taken into account in the determination of levies. Furthermore, the Government considers that small financial institutions fill an important niche in terms of alternate service provision, competition and choice for consumers.

Along with ensuring that all regulated institutions pay an equitable share of levies, the Government considers that it is very important to maintain the

long term sustainability of the levy funding base so that it can respond efficiently and fairly to any changes in the prudential regulation funding requirements. This Bill enhances the sustainability of the funding base through two means. First, an increase in the statutory maximum levy able to be levied on institutions in each sector for the cost of supervision based element. And second, an increase of three percentage points in the indexation factor applied annually to the statutory maxima.

I commend the Bill.

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**AUTHORISED DEPOSIT-TAKING  
INSTITUTIONS SUPERVISORY LEVY  
IMPOSITION AMENDMENT BILL 2004**

This Bill is one of a package of seven bills that implement the new financial sector levy setting framework set out in the Government's response to the 'Review of Financial Sector Levies'.

I commend the Bill.

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**LIFE INSURANCE SUPERVISORY LEVY  
IMPOSITION AMENDMENT BILL 2004**

This Bill is one of a package of seven bills that implement the new financial sector levy setting framework set out in the Government's response to the 'Review of Financial Sector Levies'.

I commend the Bill.

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**GENERAL INSURANCE SUPERVISORY  
LEVY IMPOSITION AMENDMENT BILL 2004**

This Bill is one of a package of seven bills that implement the new financial sector levy setting framework set out in the Government's response to the 'Review of Financial Sector Levies'.

I commend the Bill.

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**RETIREMENT SAVINGS ACCOUNT  
PROVIDERS SUPERVISORY LEVY  
IMPOSITION AMENDMENT BILL 2004**

This Bill is one of a package of seven bills that implement the new financial sector levy setting framework set out in the Government's response to the 'Review of Financial Sector Levies'.

I commend the Bill.

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**AUTHORISED NON-OPERATING HOLDING  
COMPANIES SUPERVISORY LEVY  
IMPOSITION AMENDMENT BILL 2004**

This Bill is one of a package of seven bills that implement the new financial sector levy setting framework set out in the Government's response to the 'Review of Financial Sector Levies'.

I commend the Bill.

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**FINANCIAL INSTITUTIONS SUPERVISORY  
LEVIES COLLECTION AMENDMENT BILL  
2004**

This Bill is one of a package of seven bills that implement the new financial sector levy setting framework set out in the Government's response to the 'Review of Financial Sector Levies'.

I commend the Bill.

**Senator SHERRY (Tasmania) (12.21 p.m.)**—We are considering a package of seven bills—the Superannuation Supervisory Levy Imposition Amendment Bill 2004, the Authorised Deposit-taking Institutions Supervisory Levy Imposition Amendment Bill 2004, the Life Insurance Supervisory Levy Imposition Amendment Bill 2004, the General Insurance Supervisory Levy Imposition Amendment Bill 2004, the Retirement Savings Account Providers Supervisory Levy Imposition Amendment Bill 2004, the Authorised Non-operating Holding Companies Supervisory Levy Imposition Amendment Bill 2004 and the Financial Institutions Supervisory Levies Collection Amendment Bill 2004—that relate to the issue of levy imposition on a range of financial institutions in order to substantially fund the operation of the regulators, the Australian Prudential Regulation Authority, commonly known as APRA, and the Australian Securities and Investments Commission, in carrying out their functions of regulating financial institutions in this country. The Labor Party are supporting the package of bills relating to changes in the levy arrangements. To that

extent, it is uncontroversial. We are supporting the legislation without amendment. However, the issue of levies and their application is a relatively controversial issue, and I will touch on some of the matters about the controversial application of the levies in my contribution. However, I have one suggestion—and I make this in a positive way. We have seven bills before us. It would be useful if a way could be found for us to be able to change future levy arrangements, if and when they need to be changed, in one bill rather than in seven.

Having said that, the bills make changes to the current system of determining how the funding of a number of organisations is to be distributed between financial entities subject to regulation by government authorities. As I have mentioned, these include the regulators: the Australian Prudential Regulation Authority, APRA; the Australian Securities and Investments Commission, ASIC; and the Australian Taxation Office, the ATO. Currently these levies are imposed on financial institutions to support the operational costs of these organisations. These costs are incurred through activities such as the consumer protection and market integrity functions of the Australian Securities and Investments Commission and the Australian Taxation Office.

In 2002-03, financial sector levies raised approximately \$75 million. At present, a levy rate per dollar of assets is subject to minimum and maximum amounts for institutions in each of these industry sectors. The levy rates are set to take into account the amount of time spent on the supervision of the various sectors. For example, superannuation funds contribute around 40 per cent of levy revenue, authorised deposit-taking institutions contribute 30 per cent and insurers and retirement savings account providers contribute the remainder. I wish it were that simple, because within each sector—for ex-

ample, the superannuation industry—there is a range of subsectors.

For some time small financial institutions have argued that, under the current arrangements, they bear a disproportionate share of the burden. They have argued that the cap applying to the maximum amount payable means, for example, that large banks with complex transactions effectively pay a smaller amount and that this is passed on via a higher levy to smaller authorised deposit takers with relatively straightforward operations.

In October 2002, the Liberal government established a review of the levy arrangements. The review and the Liberal government's response were released in May 2004. The most significant recommendation arising from that review was the separation of the levy into two components: the first based on the cost of supervision subject to a cap of \$1.5 million; and the second based on system impact and vertical equity considerations with no cap. It was recommended that the second element should make up 10 per cent to 30 per cent of APRA's funding requirement. This proposal has been accepted by the government and it is contained in the bills we are considering.

The legislation proposes two elements of financial sector levies. One element is based on the cost of supervision and is calculated on the percentage levy rate on assets set on minimum and maximum amounts. This is similar to current arrangements but involves greater equity through these maxima and minima amounts. The second element relates to the potential financial sector impact of a financial institution and is a low percentage levy rate based on assets. This also addresses vertical equity concerns, with small institutions paying a proportionally lower amount as their stake in the total financial system is smaller.

Labor has both consulted widely with the sector through direct representations received from various elements within the finance industry sector and had the ability to receive and test submissions and hear evidence through a number of committee hearings. In particular, I want to thank CUSCAL, which is the acronym for the Credit Union Services Corporation (Australia) Ltd, which has given broad support in principle to these seven bills. It is not the only organisation, but I know it liaised extensively with Mr Joel Fitzgibbon, the Labor shadow Assistant Treasurer, in the other place.

It should be noted that these bills simply create a regulatory framework by which the relevant minister is able to set the fees. Labor will, of course, be closely monitoring the process by which these levies are set in order to ensure that it preserves the policy intent of the bills and provides for appropriate consultation with the sector. I note that these bills will lead to a new charging regime and potentially a series of new taxes, as they are based on the tax power.

Every time the Liberal government approaches an election, it promises that in office it will not increase or introduce any new taxes. However, last year the Clerk of the Senate provided me with a list of all new taxes and charges that the Howard Liberal government has introduced since coming to office in 1996. For the information of the Senate and the thousands of people listening to this broadcast, the Howard Liberal government—despite its original commitment back in 1996 that it would not ‘increase or introduce any new taxes’—at the current new tax count, has introduced a total of 170 new or increased taxes; that is, 170 increased or new taxes since it was elected back in 1996.

**Senator George Campbell**—No wonder they’re the highest taxing government ever.

**Senator SHERRY**—You have stolen the words directly out of my mouth, Senator Campbell. That represents 170 broken promises by what is the highest taxing government in Australia’s history—and these bills will add to that list of broken promises.

In a 2001 report, the Productivity Commission indicated that, in the case of some of these agencies, the charges exceeded the cost of the service. In the case of ASIC, in 1999–2000, revenue was \$201 million but total expenses were only \$139 million. That 2001 report is interesting because it shows how this Howard Liberal government has broken its commitment and overlevied in some areas in order to increase, by stealth and shadowy measures, its revenue take while at the same time publicly claim it is not doing so.

Labor do remain concerned that charges by financial regulators do not become a hidden form of taxation. Of course, these charges, levies and taxes are passed on to consumers. Whether a superannuation fund is large or small, it effectively comes off their rate of return. In fact, the Treasury has indicated that the new framework should result in a substantial increase in levies for the largest financial institutions. The Labor Party will continue to hold the Liberal government accountable for the adequacy and effectiveness of the system of collecting levies to fund financial regulators, and we will seek to ensure that consumer interests are protected and the charges are kept as low as practical. With those remarks, I conclude by saying that the Labor Party will be supporting the seven bills.

**Senator WATSON (Tasmania)** (12.30 p.m.)—I rise this afternoon to address the **Superannuation Supervisory Levy Imposition Amendment Bill 2004** and related bills—in fact, a total of seven bills. These bills do achieve the government’s aim of implementing those recommendations made

in the report of the Review of Financial Sector Levies. The 2003 Review of Financial Sector Levies was conducted in accordance with the government's cost recovery policy. The 2003 review considered how the cost burden for providing prudential supervision to the financial services industry should be shared amongst industry participants. The review did not consider the broader issues, such as whether cost recovery funding is appropriate for the financial services sector, whether the current funding arrangements produce the most efficient or effective reforms outcome and whether the level of funding for APRA is set at the appropriate level.

I remind the Senate that the bills do not cover extraordinary items such as the extra costs which were necessary for APRA when it needed a separate allocation to prevent a major collapse such as HIH. Senator Sherry talks about broken promises, but I remind the Senate that adjusting levies, whether they be financial sector levies or agricultural levies, on particular commodities just to meet cost recovery is hardly an increase in taxation for the universal population.

The bills are a response to the Review of Financial Sector Levies that looked at the moneys levied on financial services providers to fund the prudential regulation undertaken by APRA and in part by ASIC and the ATO. Senator Sherry indicated that he believed that there were some problems associated with the levies. I wish to report to the Senate that the government involved itself in very wide consultation with industry, which supports the thrust of the levies. So, while the imputation is there, it has very little basis of support. I think that was thrown in just for the purpose of adding some spice to the debate.

The aim of the bills is to put in place a new levy framework that puts a greater part

of the burden of paying for this prudential regulation on the shoulders of the larger financial institutions on the basis that the larger the financial institution the greater the cost of prudential regulation. The government has specifically sought to ensure that the smallest financial institutions do not have to pay more. I wish to remind the Senate that, in terms of the very small SMEs, the levies really do not cover the costs. But I think we have to recognise that, in an environment where reducing numbers of superannuation funds are going to be regulated by APRA because of amalgamations and so on, this levy arrangement will need to be looked at in the future. That is certainly well down the track, so we are putting on our spectacles to see what will happen in the long run. Of course, these levies are set annually.

I remind the Senate that APRA is the prudential regulator for the banks, credit unions, building societies, life and general insurance companies, reinsurance companies, friendly societies and most of the superannuation industry. APRA is funded primarily from levies collected from the financial institutions that it prudentially supervises. A small part of the money raised through these levies is passed on to ASIC and the Australian Taxation Office to fund the specific consumer protection and market integrity functions performed by these regulators.

In his contribution, Senator Sherry also expressed concern about the need for seven bills. He said it would be helpful if the Senate could have one bill to effect such legislation. However, I wish to draw his attention to the Constitution, which states that you need a separate bill for each particular levy or item of taxation. So there is a constitutional hurdle, Senator Sherry, that has to be overcome before we can get to your ideal situation.

The current levy setting arrangements were drawn from recommendations made

back in 1997 in the financial system inquiry—that is, the Wallis inquiry. The Wallis inquiry report suggested:

... as a general principle the costs of financial regulation should be borne by those who benefit from it.

The inquiry report also stated:

The most practicable means is for industry to be levied to meet the cost of regulation incurred by regulatory agencies, with each industry levied in proportion to the agency resources expended on it. The arrangements should involve a mix of direct service fees and annual levies and should distinguish, where possible Services provided at the instigation of individual entities, such as authorisation or registrations, for which per-item cost recovery fees are appropriate ...

Under the legislation, levies on financial services institutions are paid on a sectoral basis. The financial services industry is divided into the following sectors: authorised deposit-taking institutions, foreign bank branches, superannuation funds, life insurers, friendly societies, general insurers, retirement savings account providers, and non-operating holding companies. A levy rate per dollar of assets is set for each of the sectors by the Treasurer. The levy rate is reviewed on an annual basis. For example, for the 2004-05 financial year, the levy rate on superannuation funds was 4.2 per cent. In the 2003-04 financial year, the levy rate on superannuation funds was 3.5 per cent.

So the costs of the supervision of these entities, which involve largely consumer protection and ensuring proper practice, are rising. That is an important consumer protection requirement to ensure that there are adequate resources to support the activities of a regulator. I believe that in a deregulated type of environment it is essential to have very strong regulators to ensure that the rules are followed. Therefore it is not surprising that the costs of regulation, as we keep ramping up the additional responsibilities on particu-

lar individuals and institutions, continue to be more onerous, so they have to be supervised.

The use of minimum and maximum amounts reflects the view that there are certain minimum costs incurred in regulating even the smallest of institutions, but beyond a certain size there is no extra cost in regulating an institution. Imposing a cap also prevents larger institutions from funding the costs of prudential regulation and supervision to a far greater extent than would be justified by the share of APRA's expenditure on those institutions. In addition to these levies, APRA also performs certain services for industry and it charges fees that reflect the costs of providing these services. This therefore also implements the Wallis inquiry's recommendation.

The most comprehensive review of the levy setting arrangements took place in 1999. That review recommended relatively minor changes to the levy setting process, but there was no legislative change following that review. The Productivity Commission also looked at this matter—in fact, it inquired into cost recovery arrangements within government agencies. Its report, *Cost recovery by government agencies*, was released in March 2002. The Productivity Commission noted:

Notwithstanding its increased significance, cost recovery currently lacks the attributes of good policy—namely, a clear rationale, accountability, transparency, performance assessment and review.

In response to the Productivity Commission's report, in December 2002 the government announced that it would introduce a formal cost recovery policy for government agencies—a very sensible decision following the Productivity Commission's analysis. That policy takes the form of departmental financial guidelines, which must be referred to when Commonwealth agencies are reviewing cost recovery arrangements. Therefore

we have a very good administrative measure to ensure protection and fairness.

The sectorial basis for imposing the levies should be retained. The review considered that this ensures that the nature and risk differences of financial promises are reflected in the levies charged to the regulated financial institutions. It also considered that the levy should continue to relate to the assets of the organisation. So costs should be the principal but not the sole determinant of the levy amounts; systemic risk and vertical equity considerations should also be taken into account. As a result, there should be two distinct components to financial sector levies: an A component and a B component. The A component relates to the cost of supervision and involves a single levy rate for each of the sectors which will be imposed on the assets of the organisation. The B component relates to the potential system impact and vertical equity considerations. This will be a low-rate levy on assets without any maximum levy amount. This component is to raise between 10 and 30 per cent of APRA's levy funding in any one year.

It is not envisaged that this legislation would have a financial impact on the operations of government. The legislation will determine only the framework for how the authorised deposit-taking supervisory levy is to be allocated, in terms of a cost recovery basis, to the regulated entities. The total amount of funding required to be raised by the levy is determined in a separate process upon which this legislation does not have a direct impact. Regulated financial sector entities will continue to pay financial sector levies, which in turn will be used essentially to fund the operations of the Australian Prudential Regulation Authority, as well as certain related activities undertaken by the Australian Securities and Investments Commission and, to a lesser extent, the Australian Taxation Office.

There has been wide consultation on the legislation. It is fair and reasonable. As a result, there will be two components to the levy applying to, for example, authorised deposit-taking institutions, an increase in the statutory upper limit for the restricted levy amount applying to the levy set for the 2005-06 financial year and the calculation of a higher indexation factor used to establish the statutory upper limits applying in later years. I use that as one example of the principles that apply to the seven operations. I believe these are good bills. It is encouraging that there is support from the opposition. I commend the bills to the Senate.

**Senator MURRAY (Western Australia)** (12.43 p.m.)—Two people who have addressed this chamber, Senators Sherry and Watson, deserve recognition by the Senate as being amongst the most knowledgeable people we have in both houses in the area of superannuation and, of course, the attendant bodies such as APRA. The bills put in place new arrangements for the collection of levies that are imposed on the financial services sector to fund the Australian Prudential Regulation Authority as well as some functions performed by the Australian Securities and Investments Commission and the Australian Taxation Office.

Debate interrupted.

#### **MATTERS OF PUBLIC INTEREST**

**The ACTING DEPUTY PRESIDENT (Senator Moore)**—Order! It being 12.45 p.m., I call on matters of public interest.

#### **Health: Mental Illness**

**Senator TIERNEY (New South Wales)** (12.45 p.m.)—I rise today to inform the Senate of the challenges that face the world in the area of mental health. I have often spoken in this chamber about mental health policy in Australia and the funding challenges that we face. Last year, as the leader of the Australian parliamentary delegation to the

United Nations General Assembly in New York, I received an international perspective on many policy issues, including mental health. Over time, the world's nations have taken very different approaches to the plight of people living with mental illness. Not long ago in developed countries such as Australia, our most vulnerable people were locked up in asylums, never to be seen again by their friends and family. Not long ago, mental illness was something that we preferred not to talk about. When we did talk about it, it was seen as a problem in the rich, developed countries. However, one-quarter of the population of developing and developed countries now have a mental or behavioural disorder in their lifetime.

It is quite clear that mental health knows no borders. It is an issue that needs global attention. In fact, people in developing countries are often faced with a greater burden because of exposure to war and conflict, dangerous living conditions, exploitation and physical health problems caused by things such as lack of nutrition. What is more, access to services and medicines in developing countries is severely limited. This impedes an individual's ability to access treatment. As a global community we are also becoming increasingly aware of the interrelationship between physical and mental health and the increasing disease burden that mental illness is placing on society, sufferers and their families. Mental illness affects and is affected by chronic conditions such as cancer, heart disease and AIDS. Untreated mental illness can result in diminished immune functioning, noncompliance with medication and unhealthy behaviour.

The challenge is almost overwhelming, with 450 million people worldwide affected by mental, neurological or behavioural problems at any one time. Worldwide, about 873,000 people die by suicide every year, with depression contributing to 60 per cent

of suicides. In some countries, more people die as a result of suicide than of traffic accidents. Those living with a mental illness are often subjected to social isolation, poor quality of life and increased mortality. One-quarter of all patients presenting to a health service are suffering from at least one mental, neurological or behavioural disorder. These disorders are a cause of staggering economic, social and personal cost.

What is most alarming is that the overwhelming majority of people with these disorders go undiagnosed or untreated, which severely limits their ability to lead healthy and fulfilling lives. The burden is difficult to measure, as the effect of lost productivity of family members or carers and the impact of stigma and myths associated with many mental illnesses are very difficult to quantify. What we do know is that there are huge financial and social costs in millions of people not reaching their full potential. We also know that many mental illnesses are treatable and even preventable. The last 10 years have seen tremendous improvements in our understanding of and ability to treat mental and behavioural disorders.

Over the last two decades there has been a growing movement to put mental health on the global agenda. In 1991 the UN General Assembly resolved that persons with mental illness shall be treated with dignity and humanity; shall be free from exploitation, abuse and degrading treatment; and shall be entitled to care and treatment at the same standard as other people who are ill. In 1995 the Secretary-General said:

To secure mental health for the people of the world must be one of the objectives of the United Nations in its second half century ... Our objective is to promote the mental health and well being of all the inhabitants of the planet.

In 2001 mental health was selected as the theme for World Health Day and as the technical subject for the World Health Report for



2001. This was an acknowledgement of the need for increased focus on mental health issues globally. The report focused on the medium-term aim of promoting positive mental health and instituting measures to work towards the prevention of ill health in the longer term.

There is a growing feeling and need for change. From an international perspective, Australia has come a long way in the area of mental health and has seen far-reaching reforms over the past two decades. Yet we still see many people living with mental illnesses who are not receiving the care and support they need. Nationally, we are now in the early stages of the third National Mental Health Plan 2003-08. It is a fine plan, agreed on by all federal, state and territory governments. This plan has received favourable international recognition. The World Health Organisation's 2001 report, *Mental health: new understanding, new hope*, noted that Australia's National Mental Health Strategy 'has demonstrated that changes can be achieved in national mental health reform'. Like many other nations, Australia's National Mental Health Strategy has deliberately shifted our focus from institutional care to community based care. Resources that previously targeted maintaining centralised mental health facilities have now been redirected to provide services delivered through a spectrum of service models, including general practitioners, community centres, day centres, specialist general hospital wards and small specialist hospitals.

The challenge now is to ensure that appropriate funding follows. Whilst Australia has made significant progress against the national reform agenda, there remain large challenges to be addressed. The number of mentally ill people who are committing suicide is rising, and many families still do not have access to the services they so desperately need. Like many developed countries,

Australia needs to further integrate mental health services not only into the community but also into the primary health care system. In particular, we need to balance resources and the disease burden for mental health.

Mental illness in Australia makes up 14 per cent of the disease burden but only 9.6 per cent of health funding. Some experts estimate that funding is as low as 6.1 per cent, depending on how you define mental illness. This imbalance has meant that there are insufficient resources to support a wide spectrum of mental health services. Australia is not alone in this problem. The World Bank's 1993 report, *World mental health*, presented at the United Nations in 1995, showed that mental health is responsible for more than one-tenth of the total disease burden globally, and that is projected to rise to 15 per cent by 2020. Suicide is among the top 10 causes of mortality globally. Five of the top 10 causes of disability globally are mental health problems, and depressive illnesses are expected to be the second biggest cause for the disease burden in 2020. Depression is already the fourth-ranked cause of the disease burden and in 2020 it is expected to rank second, following heart disease. In spite of a growing body of information available pointing to the increasing disease burden of mental ill health, there is a huge gap in funding and the lack of treatment available in developing countries is appalling. In some places 95 per cent of depression cases go untreated, along with 80 per cent of schizophrenia cases.

Around the world, people understand the need to provide high-quality health care but their focus is often on physical health. Last October, World Mental Health Day focused on the relationship between physical and mental health. Many people with chronic physical diseases, such as diabetes and cancer, also experience undetected and mis-treated psychological and emotional prob-

lems. Approximately one-quarter of people in the world living with cancer will suffer from depression, and depression can weaken people's immune systems. People with chronic depression are also more likely to develop cancer than those not suffering from depression. This is why the national mental health policy should not be solely concerned with mental illness but should also address the broader issues affecting the physical and mental health of all sectors of the community. This may mean refugee and settlement programs, training programs for the unemployed, reducing domestic violence and providing support for additional services to the elderly. Policymakers, health insurers and even members of the health profession still discriminate between physical and mental health services.

Mental health treatment requires multisectoral action that not only involves the health sector but also works with education and employment services, community based organisations, industry, churches and other organisations. In the words of Gro Harlem Brundtland, the Director-General of the World Health Organisation in 2000:

Only when a comprehensive strategy for mental health which incorporates both prevention and care elements is adopted, will we see substantial and sustainable progress.

We need to fight against the stigma of mental illness that can act as a barrier to sufferers seeking the kind of help they need. Stigma exists because of a lack of public understanding that could be remedied by a combination of working with the media and designing specific community information campaigns. The advances in understanding of mental disorders and human behaviour are providing reasons to be optimistic about future treatment. The results of studies and breakthroughs should be made available to all people, whether from developed or developing countries.

Research funding for mental illness, particularly in the developing world, should be given a much greater priority. At present, only two per cent of research into mental health occurs in the developing world, with its many different pressures and needs. This disparity is resulting in a large treatment gap for sufferers in developing countries. Twenty-five per cent of nations do not have access to the three most commonly prescribed medications for schizophrenia and depression. Pharmaceutical companies should ensure that the benefits of their research and development flow on to developing countries. They should consider relaxing intellectual property rights and delivering generic products to poorer nations where the need for this medicine is very great.

On World Health Day in 2001, the United Nations Secretary General, Kofi Annan, said: It is time for governments to allocate resources and establish public policy to meet mental health needs.

And yet more than 30 per cent of countries have no mental health programs and even more have no mental health policy. Mental illness has become one of the world's leading causes of illness and disability affecting one in four people worldwide. Yet with most middle- and low-income countries devoting less than 0.1 per cent of their health expenditure in this domain, governments are still not giving mental health policy and programs the attention and resources they need. Countries around the world are paying a very high price by failing to provide appropriate mental health treatment and prevention for their people.

In our rapidly changing world, the mental health disease burden is likely to rise. It is more important than ever that we acknowledge the large disease burden of mental illness and know that many of these disorders can be successfully treated and managed. We

need to provide care and treatment that is aimed at achieving each individual's own highest attainable level of health and wellbeing, and governments should establish a goal of parity between the disease burden of mental health and the resources that are allocated. Surely, this is a crucial step in ensuring the welfare of some of the most vulnerable in our society—those living with a mental illness.

#### **Veterans: Commemorations Program**

**Senator MARK BISHOP** (Western Australia) (12.59 p.m.)—I rise today to address the commemorations program for veterans in 2005, leading into 2006. It is clear that commemorations will be the major program for the Department of Veterans' Affairs this year. That is no surprise because, it is also fair to say, all attempts to form better policy have failed in more recent years. The Clarke inquiry initiated by the government backfired and was pigeon-holed, failure to support the gold card gave veterans and war widows much unnecessary worry, and in Tasmania access to medical specialists remains a problem because the fee schedules, they say, do not compare with those of the private health funds. We are advised by the government that there are no new policies for implementation and there is no additional legislation to be introduced for the remainder of this term.

There is now little on the government agenda except commemoration. It is fair to say, from past example, that the Howard government is very keen on commemoration. It is a government obsessed with public relations and the reflected glory of others. Photo opportunities have become a major substitute for policy initiatives in this area of endeavour. It should be said that commemoration is in itself a good thing, but not to the exclusion of all else. The government's budget for commemoration of veterans until 2006 will be some \$4½ million plus an extra \$7½ mil-

lion promised during the election campaign, giving a total of almost \$12 million.

The prime events will be the commemoration of the 90th anniversary of Gallipoli and the 60th anniversary of the end of World War II. From the opposition's perspective, these are fine events worth commemorating. Gallipoli is now deeply entrenched in our national psyche, though only three veterans from World War I remain. World War II is increasingly fresh in our minds. Hundreds of thousands of Australians served both overseas and on the home front during that period of conflict, and for them World War II is an indelible memory. Their families, too, honour that commitment with pride. However, the Australian community requires balance as the plans for these commemorative events evolve. Historians have a tendency to particularise war into campaigns, theatres and individual battles. The reason for this is simply that they were often significant turning points and often they entailed significant loss. They did not, however, represent the totality of effort that might have been involved through that protracted period.

As we have seen in recent years, the Kokoda campaign continues to attract publicity because of the continuing public interest now much apparent in younger generations. It is gratifying for those who served there to now see recognition of the conditions that they endured; likewise for Milne Bay, Buna, Gona and Sanananda—though perhaps we still understate the significance of campaigns in those areas of New Guinea during World War II. Together they are an example of a last-ditch effort to defend the Australian mainland. The level of hardship and the loss of so many young Australian lives cause us to remember those days, and as the year goes on we will be increasingly reminded of the significance of those losses. In many cases, as recent writers have noted in detail, lives were unnecessarily wasted.

Too many of these lives were lost due to the political imperatives of a remote high command.

It is forgotten by some that the war against the Japanese continued in New Guinea for another two years, until the ceasefire settlement at Wewak on 15 August 1945. Prior to these commemorative activities over the last three years there was some focus on other events—for instance, the fall of Singapore, the tragedies of the Burma-Thailand railway and the campaign in Sandakan. To a lesser extent attention was paid last year to the campaigns of North Africa and Greece, including Crete. The \$11 million memorial in London was also unveiled. Many feats of courage and endurance have been recognised.

It is difficult to do them all justice and avoid offending those whose contributions are often unsung. For example, little comment is made on Australians in Borneo and Burma and many other places. It is noticeable that so many veterans believe that they fought a forgotten war. That is often applied to Korea, but it is more noticeably applied to those British Commonwealth forces who took on the task of occupying Japan between 1945 and 1947, after World War II. Peacekeepers too are continually disappointed at the emphasis placed on military service other than their own.

While commemoration of major campaigns is appropriate, there is a risk of overlooking the breadth and totality of the effort involved, including the effort of those who stayed at home but nevertheless supported the war effort. Not everybody was sent abroad. As many remind us—and we are increasingly reminded through the RSL—people enlisted to fight wherever they were sent. Hence the long-term division, which is again becoming apparent, between those who returned and those who were not sent.

That is a great pity, but perhaps now we have an opportunity to redress that feeling in the forthcoming year, without diluting the effort of those who were sent.

It goes without saying that there were many contributions from the Australian community to the war effort. All those in reserved occupations helped by keeping the home fires burning and by supplying our troops' needs. As we all know, women of the Land Army are among those whose contributions are often forgotten. The war effort, as people of that generation—our parents and grandparents—will tell you, was a national effort. So my plea to those organising the commemorative program for the end of World War II is to be inclusive. We should certainly maintain the focus on the pivotal battles and the heroes who carried out their feats in those times, but at the same time we should not ignore or overlook those who helped in so many other ways.

I also raise the matter of the term 'VP Day', or Victory in the Pacific Day. The point has been made that the use of VP Day in preference to VJ Day, or Victory over Japan Day, is inappropriate. Some say it is a historic aberration. There is some merit in this argument. The war for Australia was certainly not limited to the Pacific Ocean. World War II was fought against the Japanese and Germany in the Indian Ocean and throughout South-East Asia as far as the Indian subcontinent. The formal surrender of Japan at the time was titled VJ Day. That was the phraseology of the time and, if you look at the extant newsreels, you will see that it was the common phrase used by the President of the United States at the time.

The reason for the shift to VP Day is not clear, except perhaps that some considered it less offensive to Japan in a new world, as part of a new alliance in a different battle, in them trying to put some of the vicissitudes of

Japan during World War II behind them. Indeed, if that is why, it is probably a more than reasonable argument for the shift in the title. Having said that, it does constrict the notion of the war as being conducted in the Pacific Ocean alone, and that patently was not the case. For example, it is reported that more merchant ships were sunk in the Indian Ocean than the Pacific.

The other associated issue with VP or VJ Day is the actual date. As we know, hostilities ceased on 15 August 1945, although isolated fighting continued in some places in ensuing years. The actual surrender signed on the decks of the USS *Missouri* took place on 2 September US time or 3 September Australian time. That was the date used at the time for VJ Day. The actual date, however, seems to be of lesser importance.

For Western Australians, whom I represent in this place, the title of VP or VJ Day is relevant. Like all Australians, Western Australians served wherever they were directed. The defence of the west coast and passages to Australia's north and north-west was conducted in large part out of Western Australia—out of Fremantle and, on occasion, from the more northern ports. Hence Western Australia was and remains strategically important. Its remoteness from immediate American military interest then and now makes no difference. Certainly, for Western Australians it is arguable that the term 'VP Day' is inappropriate. The restoration of the term 'VJ Day' should therefore be seriously considered.

It also goes without saying that Australia's efforts in Europe, North Africa and the Middle East warrant remembrance, and on an ongoing basis. Australia's contribution to the defence of the United Kingdom and to the defeat of the axis powers was considerable. So once again the plea is one of inclusiveness. We require balance. Above all, we

should emphasise human endeavour and the survival of national spirit. Balance, too, between the pomp and pageantry and the educational purpose for younger generations is necessary. This balance thus reminds all subsequent generations of the struggles made by our forebears in our national defence. It is not simply a series of photo opportunities for the Prime Minister and the Minister for Veterans' Affairs. Overt, continuing, large-scale political manipulation only cheapens this important commemoration of our forebears. Unfortunately, that is not the track record of the Prime Minister or successive ministers for veterans' affairs, it must be said.

As we proceed through 2005-06 we need to continuously reflect on the history of our nation's defence, particularly those dark days of 1942. We should reflect on the spirit of those who fought at the sharp end and the loss of so many. We should not forget the efforts of others in all walks of life who made their own singular contribution to the then national war effort. We in the Labor Party therefore join with the government in commemorating the end of World War II. As is always the case, we are more than pleased to endorse the 90th anniversary of Gallipoli. As elected representatives, we look forward to participating in this program in the full spirit of bipartisanship which is generally attached to this portfolio.

**Ms Cornelia Rau**

**Senator NETTLE** (New South Wales) (1.11 p.m.)—The story of Cornelia Rau is a terrible case of negligence and incompetence by the Department of Immigration and Multicultural and Indigenous Affairs, the company contracted to run the detention centres—GSL—and the Minister for Immigration and Multicultural and Indigenous Affairs, Senator Vanstone. It is incredible that behaviour which Aborigines in Cape York and asylum seekers in Baxter detention cen-

tre clearly identified as relating to a mental illness could be construed by the department of immigration as normal. It is even more incredible that the department and authorities at Baxter detention centre deemed it appropriate to lock up Ms Rau in the isolation unit.

The isolation unit of Baxter detention centre is a truly inhumane place. It exists in a high-security compound called Red One. The department of immigration refer to the isolation unit with the Orwellian term 'the management unit'. Perhaps a more accurate name is the punishment unit. Under the law, only the courts are meant to inflict punishment; however, the Migration Act places immigration detention centres outside these normal conventions. Detention and the conditions for detainees are punishment. The minister will sometimes seek to deny this but then in the next breath will tell us that it is necessary as a deterrent to stop asylum seekers from coming here.

What is the isolation unit at Baxter detention centre like? The following is a description from a statement of claim in the case of an Iranian asylum seeker who spent time in the isolation unit. He said:

The Isolation unit consists of a small room approximately three metres square. It contains no furniture apart from a mattress. The walls are bare. There is an open doorway leading to a small bathroom. There is no view of anything outside the cell. The room is lit 24 hours a day. A closed circuit TV camera monitors and records the cell 24 hours a day.

The Iranian man who provided this description was kept in this cell for 23 hours a day, separated from his seven-year-old daughter, who was deported back to Iran without the chance to say goodbye to him. It is reported that Cornelia was in this isolation unit for 18 hours a day. In isolation there is no-one to talk to, no television to watch and no radio to listen to. The Iranian man held in isolation

was not even allowed reading or writing material. This is virtually sensory deprivation.

Hassan, an asylum seeker from Algeria, spent nine weeks in the isolation unit. He said, 'If the guards were good guards, they would let him out for fresh air for four hours a day. But if they were bad guards, they would let him out for only half an hour or an hour.' Hassan also said that the guards would search his room at random times during the night and he was subjected to humiliating body cavity searches in front of female officials and the ever-present video camera.

Church worker Francis Milne, who visits detainees in Baxter detention centre, calls the conditions in the Red One section of Baxter 'sheer torture; psychological torture'. Lawyers have claimed that such conditions constitute torture under article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. How many people would remain completely sane locked in this tiny room, suffering from these conditions for months on end? Not many, I suspect.

To throw a seriously mentally ill person into the isolation unit is not just incompetent; I believe it is criminally negligent. To keep her there whilst exhibiting psychotic behaviour is cruel and inhuman treatment. Having psychosis is a serious illness. It can involve delusions, terror and an inability to understand what is real and what is an hallucination. There is enough horror in having an untreated psychiatric illness in normal circumstances. Being locked up in the isolation unit of Baxter detention centre must be a schizophrenic's worst nightmare.

There is one account of Cornelia waiting to attend the visitors centre. When she was scanned by the guards with a hand-held metal detector, she totally freaked. That appears to me to be an understandable reaction from somebody who has delusional paranoia.

Did the guards try to calm her and get an immediate psychiatric assessment? No. Reportedly, she was manhandled back to her tiny cell in the isolation unit and the door was locked.

Minister Vanstone claims that Cornelia 'didn't exhibit the criteria for mental illness'. I can only assume that she is referring to the standard criteria in the *Diagnostic and Statistical Manual of Mental Disorders* that is published by the American Psychiatric Association, which is used by most Australian psychiatrists. The purpose of this manual is to define various psychotic problems and normal reactions according to clear criteria. I understand it is a manual that proves extremely useful for psychiatrists in their daily work, but it should not be used to prove an absence of mental illness for forensic or political purposes. In fact, the writers of the manual were very much aware that people may seek to gain political advantage and could attempt to use the manual for a purpose for which it was not intended. In the introduction to the manual, the authors say:

When the DSM-IV categories, criteria, and textual descriptions are employed for forensic purposes, there are significant risks that diagnostic information will be misused or misunderstood.

The Aborigines in Cape York and the detainees in Baxter probably do not have access to the criteria set out in this manual. But they knew a sick woman when they saw one. It is extraordinary that the Kafkaesque bureaucracy of the department of immigration were unable or perhaps unwilling to provide a human response in the 10 months that Cornelia was under their care. The mentally ill deserve appropriate treatment whether they are Australian citizens or asylum seekers in detention. To deny them appropriate treatment and indeed to aggravate their illness through mismanagement is a clear abrogation of human rights.

Refugee advocates were expressing concern to the department and to the minister about Cornelia's case as early as 9 December. Detainees at Baxter have said that they approached the guards from the first day that she arrived. They told them, 'This woman is really, really sick,' but the guards ignored their pleas for action and apparently told them to 'eff off'. The Director of Mental Health in South Australia, Dr Jonathan Phillips, pushed for two weeks to have Ms Rau psychiatrically assessed. DIMIA refused. The public advocate pressed for two months for an examination of Ms Rau's case but was rebuffed by DIMIA officials that he described as the most arrogant he has encountered in his 40 years in public office.

The minister cannot claim ignorance in this case. The department of immigration cannot claim that it acted responsibly. The minister must issue an apology immediately, as should the Prime Minister, and appropriate compensation should be arranged for Ms Rau and her family. Unfortunately, Ms Rau's case is not an isolated incident. It is just a snapshot of the cruelty that occurs behind the razor wire of our immigration detention centres.

I have visited the detainees in Baxter detention centre and I have heard their stories. Every day I receive correspondence from Australians who have befriended asylum seekers and who are horrified by the treatment that their new friends are receiving. On several of my visits to detainees held at the Villawood detention centre, I met a Palestinian man who has been in detention for over three years and who obviously appears to suffer severe and debilitating depression. He rarely leaves his room, he refuses to talk about his case and he often does not come out to visitor areas. He is a stateless man and has very good reasons for release, if only he would let an advocate lodge a case on his behalf. Unfortunately, he refuses to let any-

body help him. Under this government's detention regime he has no prospect of release and must suffer with his illness until we have a government that acts with compassion and dignity, not brutality and cruelty.

Two separate studies into mental illness and immigration detention have concluded that almost all long-term detainees suffer from at least one mental illness. The studies found that the detention exacerbated existing mental illness and trauma and, worse still, made the majority of detainees, including young children, mentally ill. Dr Louise Newman, chairwoman of the Royal Australian and New Zealand College of Psychiatrists, has called Baxter detention centre 'a de facto psychiatric hospital'. If Cornelia Rau's experience is an example of the level of care that is provided in such a facility, it is one that should be shut down.

Wayne Lynch was a former nurse at Woomera detention centre and he has stated that it is detention itself that is driving people mad. He says, 'When you take away their privileges, incarcerate people, you humiliate them, you physically and emotionally assault them and deprive them of the very basics of life, anyone is going to go mad in that situation.' The Rau case has exposed an immigration detention regime that is systematic in its neglect of detainees and its abuse of human rights and that strips asylum seekers of their dignity and mental health. Detention itself is the problem.

The horrors of the detention centres are the predictable result of constructing a system beyond the scrutiny of the public and media, one that is outside the normal operations of the law. Over the past few years we have had a series of court rulings that tell us that otherwise unacceptable and illegal behaviour is acceptable under the Migration Act. Indefinite detention without charge is allowable. The detention of children is al-

lowable. The deportation of people, even with the knowledge that they face danger and persecution on arrival, is allowable. The Migration Act has constructed a class of people called 'unlawful noncitizens' who do not have the basic legal protections and rights that Australians enjoy.

The government knows that the conditions inside the detention centres are not acceptable to the Australian public. That is why it seeks to hide them, away from scrutiny. That is why detention centres are constructed in the desert and on remote islands. That is why it only allows journalists highly restricted access, if at all, to detention centres. And it is why the government refuses to hold the proper public and judicial inquiry that everybody is demanding into the Cornelia Rau case and the treatment of people with a mental illness in our detention centres.

When the presumption of innocence is turned on its head and prisons are kept from proper scrutiny, we inevitably get abuse of power and human rights. It happened at Abu Ghraib in Iraq, it has happened in Guantanamo Bay and it is happening at Baxter, Nauru and other places with detention centres. An inquiry must examine the conditions of all people in mandatory detention. Everybody, whether they are an Australian citizen, a resident or a noncitizen, is entitled to quality health care, dignity, human rights and justice. An inquiry must be transparent, independent and public. A judicial inquiry with broad terms of reference which can take evidence from a wide variety of sources is the only appropriate form of inquiry. Such an inquiry, I am sure, will reveal the full extent of the inhumanity of mandatory detention and why it must be abolished.



**Ms Cornelia Rau**

**States and Territories: Commonwealth  
Funding**

**Senator SANTORO (Queensland)** (1.24 p.m.)—I do not know whether Senator Nettle represents a constituency similar to the one that I represent, but my email address is very widely available and my telephone numbers are very widely available, and I wish to inform Senator Nettle—who has made a typical speech for Senator Nettle, representing the Greens—that her contribution does not add up in terms of the response to this issue that my office has received from the public. The public have obviously listened very carefully to the most reasonable explanations of Senator Vanstone in this place yesterday and, previously, outside this place. I have not yet received one representation on this matter, and that is a pretty good indicator of public opinion. Undoubtedly, members opposite and others will now organise an email campaign and I am sure that I will be getting plenty of emails over the next few days on this issue. That is the level of interest out there—and that does not mean that Australians are uninterested in how refugees and people who are here under a cloud should be treated. Australians are compassionate and show compassion. But clearly there is a widespread acceptance of the explanations by the government of this issue.

Today I wish to again return to a theme I have consistently spoken on since I entered the Senate in 2002 promising to work to keep the states honest and accountable for the Commonwealth money that they receive to support services delivery and infrastructure. The benefits to the states and territories of the new tax system introduced by the Howard-Costello government in 2000, just five years ago, are very plain. This financial year, 2004-05, total state and territory gains from tax reforms—that is, from the proceeds

of the GST, every cent of which goes to the states and territories, and from compensation for GST deferral—are estimated to be \$1.9 billion.

The biggest beneficiary of this process this year, and historically throughout the post-reform period, is my own state, Queensland. This year Queensland's bonus from the GST is forecast to total \$760 million plus. That is the bonus above the guaranteed minimum amount set under the Grants Commission formula, which guarantees that no state or territory will be financially worse off because of the tax reforms. For the record—and it needs to be constantly placed on the record because Queensland's Premier and Treasurer are forever trying to cry poor or claim that the Commonwealth has 'dudded' them—the guaranteed minimum amount for Queensland in 2004-05 is \$6.599 billion, so just short of \$6.6 billion in federal funding.

This year, therefore, Queensland is receiving an additional 11.51 per cent in funding on top of the guaranteed minimum amount. That is a dividend on Queensland's participation in the new tax system that far outstrips the general run of commercial returns. I should say too that it is a participation which Beattie Labor always knew was going to reap it rivers of gold but which it dishonestly opposed for blatantly party-political purposes. For this reason it is irritating to be constantly confronted by the plaintive cries of wolf that emanate from the executive building in George Street, Brisbane.

It is Premier Beattie and Treasurer Mackenroth who are the wolves in this scenario. Despite ramping up their own taxes and charges so that Queensland is no longer the low-tax state but merely a low-tax state, they still cannot make ends meet in the service delivery area. It is they who have deprived Queenslanders of services and put up

state taxes and charges, some of them iniquitous like the ambulance tax, which many people pay many times over because it is collected with their electricity bill payments. It is they who have slashed and burned services while collecting the huge and politically risk-free annual bonus of windfall GST gains. It is they who have let public infrastructure slide into disrepair—electricity services, for example. We now know that the Energex power reticulation network in south-east Queensland is very run-down indeed and that both Mr Beattie and Mr Mackenroth knew this was going to happen if they kept fronting up to Energex and demanding money to prop up their various budgets.

It is Mr Beattie and Mr Mackenroth who preside over a public hospital system that turns away ambulances because there are no available beds, closes wards and cuts—cuts out altogether, in many cases—a range of specialist services for which they say they have no money, as state Liberal health spokesman Bruce Flegg has revealed. They preside over a system from which anaesthetists resign en masse, something that happened only yesterday, as I am sure you are aware, Madam Acting Deputy President. It is the Queensland Labor government that refuses to be fully accountable to the people of Queensland and the people of Australia for the money that it gets from the federal Treasury and that it spends.

Just last week, federal Minister for Trade Mark Vaile made the point on the ABC's *PM* radio program that the ports and the logistic supply chains for which the states are responsible are absolutely critical to Australia's export capacity and performance. As usual, the states—all Labor run—were saying that port infrastructure was not really a state matter. It was interesting to see that the latest leader to emerge from federal Labor's revolving caucus door—the member for Brand

in the other place must be dizzy; he has done the rounds with that door before—apparently shares his view. It is very easy for the states to say, whenever they need something done, that the Commonwealth should give them more money. But they already get a lot of money—and collect a lot more themselves—and must get real about their own fiscal responsibilities.

And they are all at it—not just Labor-run Queensland. In New South Wales, the government cannot even make the trains run on time. In Victoria, as in Queensland, the state hospital system is dysfunctional. The Labor governments in South Australia and Western Australia have their own begging bowls rattling at the Commonwealth at every opportunity. Labor has always been very good at wasting money, but the game is up. It is up because of the GST, which all the Labor states agreed to. It is worth just running through the 2004-05 GST bonuses in full, to illustrate the point. They are as follows: \$760 million in Queensland, as I mentioned before; \$196 million in New South Wales; \$285 million in Victoria; \$248 million in WA; \$161 million in South Australia; \$102 million in Tasmania; \$60 million in the ACT; and \$134 million in the Northern Territory.

GST collections this financial year are forecast to be \$35.225 billion. In 2005-06 the forward estimate puts GST revenue at \$37.160 billion, then \$39.230 billion in 2006-07 and \$41.330 billion in 2007-08. That is a great wicket for the states to be batting on. But they still want to play their self-serving little pea and thimble games with state spending. And they are still playing hide-and-seek over true accountability for their rising revenue and falling levels of service. In Queensland, the Beattie government are in F for fail mode on service delivery, but I will award them a gold star for inventive excuses. But that is not leadership, as I am

sure others in here would agree, and it is not good government. It is not doing the job for Queenslanders that Australia's taxpayers give them so much money to do.

There is one case in point that deserves to be mentioned in the national legislature. It is the question of Commonwealth funding for the upgrade of the Bruce Highway at Tully in North Queensland. To access this money—\$88 million is available to floodproof that key section of highway and upgrade the highway standard—Queensland needs to sign up to the national code of practice for the building and construction industry. That should not be too hard; for a start it is commonsense.

The Bracks government in Victoria signed up yesterday; at least they have seen the light. The South Australian government has agreed to comply; that government has also seen the light. But the light is still out in Queensland, and not only in homes and small businesses with the power supply problems that the Beattie government has brought about. It is still out on the reform front, because in the context of the national agreement, Premier Beattie apparently would rather protect his union mates and their cosy little deals than sign up to government 21st century style.

Premier Beattie would rather deprive North Queensland and the town of Tully of desperately needed road improvements than sign up to and be accountable for \$88 million, which is available for them to use—and all to protect their union friends. If Premier Beattie will not see the light, then he must explain to the Queensland people why it is more important to him to protect outdated and unacceptable union malpractices than to look after the interests of Queensland motorists and the highway lifeline in North Queensland. That highway carries nearly three million tonnes of freight a year. At Tully, this

traffic—and of course family motorists too—has been disrupted 22 times in the past three years by floodwaters cutting the highway. Most civil engineering contractors already comply with the national code, yet Mr Beattie, who claims he is the leader of the smart state, simply will not.

Of course when you actually have a look at the midyear fiscal and economic review figures, they show that state taxation revenue is also increasing. I will not go through all the figures here today for the sake of brevity, but Queensland state taxation revenue is also up. There should be absolutely no excuse for the Beattie Labor government to say that they do not have sufficient moneys to provide services.

No wonder people thought that the state government should cough up when former State Governor Leneen Forde asked for an extra \$2 million so her foundation can service the needs of an increasing number of former victims of abuse seeking assistance. The foundation got \$900,000 instead. Funding for child safety in Queensland has now been sharply raised—and I admit in this place that that is good. But this necessary action was overly delayed by the Premier's unwillingness to deal with the fact that his two previous ministers in the relevant portfolios—favourite failure Anna Bligh and dismal failure Judy Spence—were profound underperformers.

Then there is Energex. Its problems are many but just one instance will serve to illustrate the point. Out at Forest Lake, a new suburb on the south-western fringe of Brisbane, the power has a habit of going off. Forest Lake of course is not unique. A lot of places in south-east Queensland suffer outages, as they are called. This is a problem for a lot of people, including Premier Beattie, who in December decided he should offer compensation to households that had not had

a fair go with their electricity supplies. But what about small business, whose inconvenience at the hands of financially strapped Energex—one of the government owned corporations that Peter Beattie has been robbing to pay goodness knows who—is financial as well as social? Why should businesses, small or large, have to bear a commercial cost to their operations because the Queensland government has effectively pulled the pin on their power supply? Is there not a case for compensation? I suggest that there is.

One business at Forest Lake recorded these interesting statistics on blackouts that cost it customers and therefore money: 'Monday, 26 July 2004, lights out 6 p.m., 60 minutes in the dark. Monday, 6 September 2004, lights out 11.30 a.m., 120 minutes without power. Sunday, 24 October 2004, during the day, power out for two hours. Monday, 13 December 2004, 1 p.m., power out for three minutes. Friday, 17 December 2004, 12.52 p.m., power out for three minutes.' Customers have a right to expect far better service than that. In fact, customers leave when the lights go out and do not return, thereby affecting the day's sales, and the power failures put expensive computer software at risk.

The Beattie government is dragging its feet in so many other areas: for example, in the aged care sector, despite substantial Commonwealth funding. I am told staff at the state government run Eventide home at Sandgate in Brisbane have recently heard bed numbers there are to be cut. Here is a sample list of service needs unmet by the Beattie government, which says that it is the government of the smart state but clearly it is not. The Beattie government spends only \$9,724 per high school student, the second lowest in the country, against the national average of \$10,561. It is cutting back on important programs, such as Reading Recovery,

teacher aides and other budget line items. As state Liberal education spokesman John-Paul Langbroek says, how can people have confidence that the government will deliver an effective service when the prep year is introduced statewide in 2007? When the state government is awash with GST and own-tax revenue, why can't it improve its maximum \$180 rates concession for Commonwealth pensioners and veteran gold card holders?

I could go on because I have extensive lists of underperformance and inadequate service delivery by a government that is awash with money, particularly money which we at the Commonwealth level make available to them. But even when we try to work closely with them to come up with deals that, for example, will help farmers, what happens? Only today we have heard another example of the total ineptitude of the Beattie Labor government. Mr Beattie has torpedoed three months of good, solid and practical work designed to assist the Emerald citrus growers who have been blighted by the citrus canker outbreak. He has said that he now does not want to participate in that deal that has been worked out with the Commonwealth. Good on the Minister for Agriculture, Fisheries and Forestry, the Hon. Warren Truss MP, who today has again uncovered another area of ineptitude by the Queensland government in terms of service delivery—in this particular case, as in the case of highway funding, an inability and an unwillingness, for ideological reasons, to work with the Commonwealth government—that seeks to enhance the lifestyle of Queenslanders and the viability of citrus fruit growers. (*Time expired*)

#### Water Safety

**Senator LUNDY** (Australian Capital Territory) (1.39 p.m.)—I rise in the chamber to express my continuing concern that water safety in Australia is not given adequate sup-

port by the government. While this issue is no longer technically in my portfolio, I believe it is important to report on how the policies which Labor brought to the last election could have impacted in this area and to highlight the ongoing neglect of water safety by the Howard government.

Since the introduction of the National Water Safety Plan in 1998, there has been some success in reducing the number of drowning deaths in Australia. However, 250 Australians still drown every year, drowning is still the fourth largest cause of unintentional death and in the zero to four age group it is the second largest cause of unintentional death. There is no doubt that Australians love the water, but the risk that it presents has been demonstrated by a series of tragic events over the last few months. For example, along the New South Wales beaches on the weekend of 29 and 30 January, more than 450 swimmers had to be rescued from heavy surf and five men tragically lost their lives.

The hazard of the water is not limited to our coastal areas; it also extends to inland swimming pools and sports centres. For example, there was another tragedy here in Canberra where a two-year-old child died at the Canberra International Sports and Aquatic Centre. Who can forget the awful circumstances that occurred at a holiday precinct in the Grampians in Victoria when several members of the same family lost their lives at MacKenzie Falls, hence reminding us of the dangers of the natural inland waterways as well?

The fact that more people do not die is a demonstration of the continued dedication, commitment and expertise that is found in our volunteer organisations. There are over 7,000 accessible ocean beaches in Australia and an estimated 60 million annual beach visitations, which combine to create a huge safety problem. Add to that the issues of the

inland waterways and you start to get a sense of the scale of this challenge. Surf Life Saving Australia patrol over 400 beaches from a base of 280 surf clubs and 107,000 members, and they rescue more than 11,000 people each year. Also, Royal Life Saving Society Swim and Survive courses provide the skills and education necessary for a lifetime of safe activity in or around the water. Since 1982 over 10 million Australians have participated in these courses. That is an impressive number.

Despite the ongoing loss of life on and in our waterways, the reality is the government has provided no additional funding to support and promote programs which could save Australians. The \$10 million over four years promised in the 2004 federal election campaign for water and alpine safety initiatives merely maintains the current annual appropriation for these programs. The absence of any real increase in the funding to reduce the number of fatalities that occur each year demonstrates the Howard government's lack of real commitment to water safety in this country. In contrast, Labor has always strongly supported programs which promote the recreational and sporting activities of the community at large and was willing to provide an extra \$2.2 million to adequately fund the National Water Safety Plan and other water safety programs that it believes have been neglected by the Howard government.

Drowning deaths can be prevented when we know who to target. Traditionally, children in the zero to five years age group are the No. 1 priority group identified by the Australian Water Safety Council. In 2003-04, 40 children in this age group died. While this is down on the 2002-03 figure, it is still far too many avoidable deaths. Almost half of these drownings occurred in swimming pools. This is often because the pools are not restricted or are unsupervised, according to

the Royal Life Saving Society's *National drowning report* of 2004.

Labor's approach is focused on reducing the number of childhood drownings in Australia by teaching children to swim and be safe around the water. We are committed to programs which support the goal of reduced childhood drownings. Under the Labor water safety policy taken to the last election, we proposed an additional \$250,000 per year to fund 300 training courses to help parents and other carers to look after toddlers around water and \$70,000 to better train water safety teachers in the AUSTSWIM programs.

The percentage of injury and drowning deaths in the 16 to 35 male demographic also far outstrips acceptable limits, and this is the No. 2 priority group identified by the Australian Water Safety Council. In this age group over 85 per cent of drowning deaths are male and, as with other risk-taking activities, the National Water Safety Plan 2004-07 states that there is evidence that drugs and alcohol may be a factor. In 2003-04, 75 people in this age group drowned predominantly in coastal or river locations while undertaking leisure activities.

There is clearly a need to better educate and protect all Australians, but particularly those in this age group. In the Labor water safety policy, we proposed an additional \$210,000 per year to increase funding to the National Water Safety Plan, which promotes a targeted education plan for 16- to 35-year-olds and supports pool lifeguards and surf lifesaver teachers around Australia. The basic fact is that no coastal drowning deaths occur between the flags and, if individuals can improve their awareness of potential dangers, the number of fatalities may well be reduced further. It is also disquieting that, with Australia's ageing population, the drowning rate of those aged 55 and over is increasing. In 2003-04 the number of drowning deaths in

the 55 to 64 age group increased by 25 per cent compared to the five-year average. As the number of people in this age category increases, this group will continue to be of concern unless action is taken.

There are other groups in danger, particularly international tourists, who made up nine per cent of coastal drowning victims in 2003-04. Recurring drownings indicate that tourists do not understand the dangers of the Australian surf and tend to swim outside the patrolled areas. The hazard is aggravated by language confusion and, as in the case of a drowning in January, a need to communicate only via hand signals. In its water safety policy taken to the 2004 election, Labor planned to alleviate some of these issues by providing an additional \$250,000 per year to help fund translation services for water safety information for people from non-English-speaking backgrounds.

Another overlooked group potentially at risk from water based injury or fatality is those living in rural and regional areas. While less than 10 per cent of the New South Wales population resides in outer regional, rural and remote New South Wales, an analysis of rescues has indicated that individuals from remote localities have a higher risk of drowning or utilising a surf rescue service compared with individuals living in urban centres. Surf Life Saving Australia has indicated that, against previous trends, most drowning victims in 2003-04 lived 10 to 50 kilometres from the coast. As with tourists, lack of appropriate experience and knowledge are major factors in the heightened risk for this group. Their residential proximity often restricts how often they frequent the beach and the coast and therefore their knowledge of beach hazards and conditions is often minimal.

This is an important point. Surf Life Saving Australia have long argued for and do have successful programs that target non-coastal high schools and education facilities. We now have a compelling set of statistics and data which show that surf life needs to go beyond just the beaches and the schools surrounding those areas that they patrol. Most Australians at some point in their lives do go to the beach and, without access to that knowledge, training, experience and understanding of what a rip is at the beach, of beach safety and the whole purpose of swimming between the flags, it is very difficult to see how we can improve these statistics. I would like to acknowledge the work of Surf Life Saving Australia and their efforts and advocacy in getting more courses and providing more opportunities for Australians in non-coastal regions to be educated.

Harsh as the reality may be, the fact is that there is a cost associated with drowning deaths, and this extends beyond the pain and suffering of the victims' families. The lifetime cost of a drowning death ranges between \$370,000 and \$463,000. At approximately 20 deaths in Australia per year, the cost to the Australian economy is between \$92 million and \$115 million. Programs which support and encourage safe water practices are beneficial not only to individuals and families but also to our public health system and our nation's sense of confidence in dealing with our coastal regions.

As demonstrated by our policies, Labor have also confirmed a strong commitment to grassroots programs which encourage and facilitate the ability of all Australians to enjoy a healthy lifestyle. It is certainly no surprise to me that the Howard government continues its longstanding underfunding of community programs which would otherwise enable Australians to enjoy their coastal environment and support facilities to the fullest extent. Our collective ability to participate in

recreational activities which reflect our national character could, I think, be severely hampered by the Howard government's lack of commitment to policies that focus on the safety of Australians and indeed international visitors.

I believe that, if there is to be any impact on the effect of drowning deaths in Australia, the Howard government must make a stronger commitment to water safety through its policy and through a stronger commitment of resources. Having been elected late last year, the Howard government has an opportunity in the forthcoming budget to make that commitment. Comprehensive school education programs and public education through diverse media channels, particularly targeted at the high-risk groups, are crucial. Additionally, resources and funds are needed to support those who try to educate or save individuals in aquatic locations. This includes training additional water safety teachers and coaches and, as I said before, extending lifesaving services by providing funding and assistance to fully train volunteers not only across the coastal areas but also in regional, rural and even remote areas of Australia.

Theoretically, almost every drowning death should be preventable with the right education, resources and funding. We know where people drown, who is most at risk and what we need to do to prevent these deaths. The public policy challenge is to ensure that individuals are educated and aware of the hazards and that the people who save lives are supported in every possible way. I believe this is a challenge that the current government are not meeting and one that stands before them as they embark upon their next term of government.

In closing, I would like to once again acknowledge both the Royal Life Saving Society Australia and Surf Life Saving Australia.

In my former capacity as shadow minister for sport, I had the opportunity on many occasions to address their national councils and to hear first-hand of the experience of their volunteers. I know several people who have been involved as volunteers for both organisations as swim teachers and as surf lifesavers, and their commitment is extraordinary. These people volunteer a huge proportion of their personal time to a public service. It is a public service which does get some support from the government, but I can tell you that the entrepreneurial spirit of the Royal Life Saving Society and Surf Life Saving Australia is what puts the heart and soul behind these programs right around the country. I would like to take this opportunity to commend their work and wish them every effort in trying to convince the Howard government, in the lead-up to the forthcoming budget, to improve their bottom line so they can improve the chances for many Australians and international visitors of surviving the horror of a water-related death or accident.

**Australian Broadcasting Corporation:  
*Heywire***

**Senator IAN MACDONALD** (Queensland—Minister for Fisheries, Forestry and Conservation) (1.53 p.m.)—It is not often that you will hear politicians praising the media, particularly the ABC. But I have to say that the ABC do a fabulous job in two areas that I have been involved in. One is their rural and regional radio service. It is a service that is almost part of life in country Australia. People who live in country Australia get a lot of information and interaction through the ABC. They get farm prices, commodity prices and information on what is happening in smaller communities from the local ABC, and I think the ABC does a great job there.

Today I want to highlight and concentrate on another initiative of the ABC which I think is just fabulous, and that is the *Heywire* program. For those of you who do not quite understand what *Heywire* is, it is a nationwide radio competition where young people in country Australia have the opportunity to submit to the ABC a short account of their life or an account of something they are very passionate about. Over the summer period, the ABC runs these stories on the ABC local radio—and I think even city radio and Triple J as well. The 40 people who submit their stories are, as a reward, brought to Canberra for a week, and they are with us at the present time. They will be attending question time in the House of Representatives in a couple of minutes time.

I think that this program is tremendous and I am so delighted that the Howard government has been a contributor and a supporter with grants to the ABC for the program over the last several years. Originally the Department of Transport and Regional Services provided financial support and, more recently, my own department, the Department of Agriculture, Fisheries and Forestry, has provided support. This year the department is giving some \$50,000 to the program. The Howard government has a number of programs and initiatives which encourage young people, including young people from country Australia, to achieve and develop their leadership skills. But this program run by the ABC is quite different. It involves a different type of applicant, and it involves people from all parts of country Australia.

In this week the 40 young people will see a lot of Canberra. Many of them have never been to Canberra before, many of them have never been outside their own state and a couple of them have never been outside their own communities. This program gives them that opportunity, allows them to make life-



long friendships—and I know that has happened—and gives them some encouragement to go on to bigger and better things.

Some of the stories that these young people tell are fascinating, and I think all of us in this chamber could well benefit from listening to them. One of the stories this year was about the devastation caused by the locust plague. That was by Tim Martin, a young guy from Willow Tree in New South Wales. Rebecca Barnett from Rosedale in Queensland submitted a story about the dreams of a grazier's daughter. Jacqueline Magee from my own home area of Townsville submitted a story entitled *A positive view on regional life*. That story encapsulates a lot of the good things I see about people living in regional Australia and how you make the best of where you come from. Lester Shadforth gave an interesting account about the Lower Gulf Indigenous beef cattle drive. Lester comes from Mount Isa and he has never been outside Queensland before, but he is enjoying Canberra and he had a very interesting story which gave us a lot to think about.

Lily Nomoa comes from Badu Island up in the Torres Strait. Her talk was about responsibilities of family and school life. That was very interesting to me; I was up in the Torres Strait with the Protected Zone Joint Authority just last week doing some work with people from Badu Island. It is interesting to hear a young person's view on what life is like there. Joanna Koeyers is from Kununurra in Western Australia, and she gave an account of station life in the north Kimberley. Again, it was an interesting account that those of us in this chamber would not be aware of in our daily lives.

When we listen to these stories of young people we can see life—particularly life in country Australia—from a different perspective. It helps the government, and it helps all of us. It will give politicians who attended

the function this morning and those who will attend the dinner on Thursday night, some insight and will help in the way we interact and do our jobs as legislators. I am delighted that the Howard government has been involved, and I congratulate the ABC again on this magnificent initiative.

#### QUESTIONS WITHOUT NOTICE

**Ms Cornelia Rau**

**Senator LUDWIG** (2.00 p.m.)—My question is to Senator Vanstone, the Minister for Immigration and Multicultural and Indigenous Affairs. I refer the minister to questions she left unanswered yesterday. Now that the minister has had 24 hours to get her story together, I ask again: on what date was she or her office first alerted to the presence of the detainee later identified as Ms Rau in immigration detention? I ask the minister again: can the minister outline to the Senate on what dates checks were conducted against the missing persons register in New South Wales and other states except Queensland? I ask the minister again: did DIMIA officials fingerprint and photograph Cornelia Rau? On what date was Ms Rau first fingerprinted and photographed by DIMIA officials? Can the minister explain to the Senate exactly what checks were made against the national CrimTrac databases, including the national names index, that contain data on missing persons?

**Senator VANSTONE**—Senator Ludwig, thank you for your question and for your advice to my office that you were chasing up the questions that were taken on notice yesterday. I indicate to other senators that it was indicated to you that you would get answers to them today. We were not sure that we would have them by now, and—

**Senator Ludwig**—You hadn't decided if you were going to. I still don't know.

**Senator VANSTONE**—I have not seen them at this point—and I am certainly not going to release something I have not seen, I can assure you. As much as I trust the people who prepare answers, I generally like to have a look at them before I give them to the Senate. I did indicate yesterday in relation to this question that my office had this matter raised with it in early January sometime. I have spoken to the staffer concerned and he does not recall the specific date on which that was raised. In any event, as I indicated, the department raised the matter with him. I indicated that there was a subsequent meeting in my office in Canberra and that I would get you the date of that, and I have that date. I am advised that was on 19 January. I indicated yesterday that a range of matters were discussed there, including this matter. That is the date.

As for the other matters that you put on notice yesterday, I think I heard—and I will check the *Hansard*—that you might have added some more specifics today. Today I will have for you the vast majority, if not all, of the answers to the questions I took on notice yesterday. I will not wait until tomorrow to do that. To the extent that there are any fresh questions that go to detail as to specific dates of movements and so on, I will take those on notice and get the answers for you as quickly as I can. If they happen to be available within that batch of material, I will give them to you today as well.

**Senator LUDWIG**—Mr President, I ask a supplementary question. I thank the minister for her diligence in being able to bring those answers forward as soon as she can. Minister, the Senate has already been told about the checks with Births, Deaths and Marriages and Centrelink, but what checks—and this might clarify this for you—were made with police and missing persons registers outside Queensland? Minister, is it not the case that DIMIA failed to check the New

South Wales missing persons database, failed to check the missing persons databases of other states, failed to check CrimTrac, failed to check with police forces other than the Queensland police and, finally, failed to circulate fingerprints and photographs of Ms Rau that may otherwise have identified her? Unfortunately, is it not the case that the whole reason that Ms Rau was in detention for 10 months longer than she should have been was that DIMIA did not perform the necessary checks?

**Senator VANSTONE**—Thank you, Senator Ludwig, for the question. I will get you the dates and—I think that was part of your earlier questions—what contacts were made with the state and federal agencies and when. I told you I will get you that, and I will. That will of course include missing persons units. When that information comes, we will have that. You understand—I think I told you yesterday—that we did contact the Queensland police missing persons unit in April last year. That did not bear any fruit because Ms Rau simply was not listed at that time. That may beg the question that, if you are notified that you have a person of concern to you, who you suspect may be a missing person—and this could happen outside the immigration context; it could happen, for example, to someone who had a pre-existing mental condition and was simply—(*Time expired*)

#### **Environment: Greenhouse Gas Emissions**

**Senator LIGHTFOOT** (2.05 p.m.)—My question is directed to the Minister for the Environment and Heritage, Senator the Hon. Ian Campbell. I ask: would the minister outline the government's contribution to the reduction of greenhouse gas emissions? Is the minister aware of any alternative policies, including a proposal for a carbon tax?

**Senator IAN CAMPBELL**—Thank you to my Western Australian Liberal colleague Senator Lightfoot for a question which is

very important to Western Australia and, in fact, all of Australia. Climate change is one of the most substantial challenges to Australia's economy and environment. As I have said in the past, you can spend hundreds of millions, in fact billions, of dollars on biodiversity conservation and marine protection—indeed, on the Barrier Reef—but if you have global warming at the sorts of rates predicted by the consensus of science then all of that work will be for nought. So it is very important that Australia in a practical, sensible and outcomes oriented way pursues a reduction in greenhouse gases and tries to reverse what is now quite clearly a significant contribution of human activity to greenhouse gases and climate change.

That is why the Australian government has committed \$1.8 billion in ongoing programs: investing about half a billion dollars in lower emissions technology and \$100 million in a renewable energy development initiative, the Solar Cities program, which is already working. We saw last Friday an announcement by BP Solar to expand their operations at Homebush in Sydney with a further \$8 million injection. I met yesterday with Origin Energy, who look like they will be expanding their operations in Adelaide which I know Senator Minchin and Senator Vanstone will be very pleased about. There is also the advanced energy storage technologies fund and the \$14 million wind forecasting program, which is very important for wind turbine technology and wind farms that are a significant part of the renewable answer to greenhouse gas emissions. It is very important for the wind turbine industry to know exactly where wind is most reliable. So we are doing all that. I am sure Senator Lightfoot is aware of a number of those measures. No doubt he would have seen the new wind turbine on Rottnest Island over the summer which is getting rid of about

500,000 litres of diesel on that one little Western Australian island alone.

The other proposals Senator Lightfoot asked about relate to the Labor Party policy. One of their policies, which was trumpeted during the last federal election campaign and has been signed on to by all of the Labor states, is this thing called the national emissions trading scheme. It is very hard to get any actual information out of the state Labor governments. I have asked that the Carr government—that is, Bob Carr—produce the national emissions trading scheme. I have asked that Dr Gallop produce the details of the scheme before the WA election so we in fact know what the taxpayers and electricity consumers of Australia will be up for under Labor's proposal.

The coalition is investing in lower emissions technology, investing in renewables and investing in wind and solar power, and Labor's proposal is to introduce a new carbon tax. What we do know about Labor's secret plan in the states is that it may involve a tax on carbon—or a carbon tax, as it is known. The lowest carbon price of about \$1.05 per tonne was factored into the Allen Consulting Group report, which I commend to people to read. I will probably need for Senator Ross Lightfoot to seek further enunciation of the national electricity markets scheme if he does feel minded to ask a supplementary question, but I think we need to know what the true cost of this scheme will be. The Allen's report will show a 27 per cent increase in the wholesale price of power across Australia. That would represent about a \$200 a year increase in people's power bills. The lowest emissions cost—*(Time expired)*

**Senator LIGHTFOOT**—Mr President, I ask a supplementary question. Could the minister further outline those contributions

or any alternative policies relating to greenhouse gas emissions?

**Senator IAN CAMPBELL**—Thanks again to Senator Lightfoot for that very sound supplementary question. I was explaining that the 27 per cent increase is at the upper end of the Allen Consulting Group's analysis of an NETS. The other is what is called a national electricity market based on energy intensity levels—a complicated program but once again it pushes the price of power up, and even at this lowest option level analysed by Allen consulting for the Labor states that shows an increase of between two and six per cent in power charges for electricity consumers, which would see a \$29, \$30 or \$35 increase in everybody's power bills. Labor's plan is to put a tax on carbon; our plan is to invest in carbon reduction technologies. What the people of Australia need to know, and preferably before the WA election, is what Dr Gallop is going to do. Is he going to come clean and tell the people of WA what the increase to power charges will be when he signs on to the NETS? (*Time expired*)

**Ms Cornelia Rau**

**Senator KIRK (2.11 p.m.)**—My question is to Senator Vanstone, the Minister for Immigration and Multicultural and Indigenous Affairs. Can the minister confirm whether Ms Rau was assessed by a specialist psychiatrist while detained in Baxter detention centre in early November of last year? Was a clear psychiatric diagnosis made at that time and did that diagnosis go to schizophrenia? Did that specialist psychiatrist make specific recommendations regarding Ms Rau's care and treatment? Were those recommendations put into action by the minister's department and, if not, why not?

**Senator VANSTONE**—Senator, thanks for the question. I will answer the question as though you asked 'did a psychiatrist...' as I

am not sure what a 'specialist psychiatrist' is. I thought a psychiatrist was a specialist. If there was a psychiatrist of a particular category, I cannot give you that answer. When Ms Rau came to Baxter with a file showing that she had been assessed in a Brisbane women's hospital—as I understand, by a person of a significant repute in the psychiatric profession—as not exhibiting the diagnostic criteria for mental illness, they nonetheless, as I said yesterday, suspected something was not right. The psychologist recommended that she see the psychiatrist—

*Senator Carr interjecting—*

**Senator VANSTONE**—You might like to crack jokes about this, Senator; I do not happen to think it is funny.

**Senator Carr**—I was cracking a joke about you!

**Senator VANSTONE**—In any event, Senator Kirk, they did recognise something which was inconsistent with a specialist report that had already been made some four or five weeks before. So you have the nurses and psychologist, in the knowledge of a specialist psychiatric report, saying, 'Well, we think otherwise.' And, with respect, that is being on the ball. That is exactly right. Anyway, a psychiatrist did visit. It was not a full assessment on the initial visit and, no, there was not a clear diagnosis. My advice is that Dr Fukaz—that was the doctor's name—indicated there may be a range of difficulties that would need to be resolved as to which possibilities could be, but he recommended, as I am advised, two options. I have not seen his report, so I am not sure if they are options or two things that needed to be done, but I am advised they were options.

One option was for a better assessment in an institution—we set about achieving that, as I indicated yesterday, by contacting the relevant body in the South Australian mental health authority that we are meant to contact,

having telephone discussions with them and then faxing them the material that they needed to make the assessment—or to be kept under supervision. I am advised that was an option. Ms Rau was kept under supervision in the sense that she did, subsequent to that, see the psychologist regularly. I do not mean at regular intervals but continuously, and she was checked on by the nurse each day. They were the recommendations. There was not a specific diagnosis. Schizophrenia may have been mentioned in the sense that there were a number of things that needed to be ruled out to ascertain what the problem was.

**Senator KIRK**—Mr President, I ask a supplementary question. Can the minister provide the Senate with details of all psychological or psychiatric assessments undertaken while Ms Rau was in detention, authorised by the department of immigration, over the full 10-month period? Were all of the recommendations of these assessments complied with by the minister's department?

**Senator VANSTONE**—I will give consideration to that. You are asking for a person's medical file for all and sundry to go through. I have a particular concern with that—I would, in any event, but the circumstances in particular of this case give me some concern. I will think about it. We may be able to come to some arrangement where nominated parties can look at the material. I say that because, over the first few days when we discovered this woman was a permanent resident of Australia, I spent my time on this largely working with the department to try to ascertain what had happened vis-à-vis Immigration. Was there anything we could have done better or should not have done that we did, and what in fact had happened? I was looking at what happened. Last night I took the opportunity to stay back, go through the media clips and look at what Australia has been told happened. There is a

very large gap, Senator Kirk. I am amazed at some of the coverage. But that is neither here nor there. I will come back to Senator Kirk with some more on that. *(Time expired)*

#### **Information Technology: Internet Content**

**Senator PAYNE** (2.16 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Coonan. Will the minister advise the Senate on the steps the government is taking to make the internet safer for both children and families? Is the minister aware of any alternative policies?

**Senator COONAN**—I thank Senator Payne for a very timely question and acknowledge her longstanding interest in policy matters affecting the internet. As many senators would be aware, yesterday was international Safer Internet Day. I am proud to say that the Australian government is committed to protecting children from the scourge of illegal and offensive internet content and wholeheartedly supports the motives behind Safer Internet Day. In celebrating Safer Internet Day, NetAlert and the Australian Broadcasting Authority announced some new initiatives to complement the government's tough policies to crack down on internet pornography. Educating the community about the technological safeguards that are available is a vital part of making the internet a safer experience for children and of course for families. That is why the Australian government recently provided NetAlert with \$2 million to run the national CyberSafe program. This is a two-year information campaign aimed at educating parents, teachers and community groups about the risks children face online and how to address them. NetAlert also launched an internet safety storytelling competition as part of worldwide activities to mark Safer Internet Day.

The ABA has released a brochure entitled *How to be phone smart*, with safety informa-



tion for children and their parents on the use of mobile phones. While NetAlert focuses on making the internet safer, the ABA has concentrated its efforts on reducing the risks associated with mobile phone use. Issues such as harassment, spam, people making inappropriate contact, and the possibility of children accessing unsuitable content are all challenges these organisations and the Australian government are very mindful of tackling. The CyberSafe program forms part of the government's National Child Protection Initiative, an election commitment to spend \$30 million to protect Australian children and families from sex criminals.

Senator Payne asked if I was aware of any alternative policies. I am certainly aware of the Labor Party's policy of opposition to, and inaction on, this issue. The government introduced a comprehensive online coregulatory scheme, by which ISPs found not complying with the relevant code of practice can be subject to fines of up to \$27,500.

**Senator Lundy**—Mr President, I rise on a point of order going to relevance. Senator Coonan is misleading the Senate on Labor's policies. The government has adopted many of Labor's policies in this regard.

**The PRESIDENT**—There is no point of order. Minister, I remind you of the question.

**Senator COONAN**—It is interesting that Senator Lundy interjects, because I remember her having criticised the government's strong stance on taking action to protect children on the internet. She said it was the coalition's 'Big Brother approach to internet censorship'. The ALP has shown itself to be completely out of step with the community and families. I cannot imagine a more important matter for parents than the safety of their children and certainly the safety of their children online. Labor even attempted to block amendments to the Freedom of Information Act, which closed a loophole that

could have allowed people access to lists of the most offensive content on the internet. Unfortunately, Labor has form on this. I earnestly hope—and I say this genuinely—that Senator Conroy, as the new spokesperson for the Labor Party, will work with the government to strengthen initiatives to assist parents and families to deal with scourges on the internet.

#### **South Australia: Bushfires**

**Senator BOLKUS** (2.21 p.m.)—My question is to Senator Ian Macdonald, the Minister for Fisheries, Forestry and Conservation. I refer him to yesterday's answer in which he asserted how proud he was of the Commonwealth government's response to the tragic bushfires on the Eyre Peninsula in my state of South Australia. Is it the case that many of those bushfire affected farmers in receipt of relief grants will, in some cases, be forced to pay income tax on those grants of up to \$9,000?

**Senator IAN MACDONALD**—I will obtain some information for Senator Bolkus on that particular issue. I imagine it is probably more a question for the Treasurer.

*Senator Sherry interjecting—*

**Senator IAN MACDONALD**—I do know a lot about taxation, but I think these issues on taxation policy would probably be a matter for the Treasurer. Let me in a broader sense indicate to you that most government grants—and government grants that I have dealt with in my previous portfolio of regional services and in the current portfolio of fisheries and forestry—are taxable.

**Senator Chris Evans**—They are for the benefit of the National Party!

**Senator IAN MACDONALD**—Anything but.

**The PRESIDENT**—Order! Minister, ignore the interjections.

**Senator IAN MACDONALD**—Any grants that are made by any department in which I have any involvement are done principally on the basis of recommendations from independent committees of community people. Generally speaking—and I can say this in relation to the recent Western Australian forestry grants and other grants I have been involved with—the grants are taxable in the hands of recipients as income. The sugar initiatives—the sugar encouragement grants—are taxable in the hands of recipients. I only know this because the forms that go out with them quite clearly state that. They do state, ‘Get your own taxation advice,’ because we do not presume to tell grant recipients—

**Senator Abetz**—You get raffle ticket advice, Nick.

**Senator IAN MACDONALD**—what their particular taxation situation is. We indicate that it is our belief that they should get independent taxation advice. As Senator Abetz rightly says, we do not presume to give those opposite advice on how you run a raffle that I do not think ever was. Senator Wong, we are still waiting to see who actually won the raffle, and that is something we would be very curious about. I am sure it was not Senator Bolkus.

Senator, your question also highlights that the government are very keen to help those who have suffered as a result of the bushfires. We as a government understand the difficulties that occur at times like that. We do make every effort to help out. I am not committing the government to any particular support program at this stage, but I can say that across all avenues of government we are looking at ways that various programs could be adjusted to help those who are quite obviously suffering as a result of the bushfires. This is a very serious problem. These natural disasters occur through no fault of the land-

owners themselves. We as a government want to try and help. We want to work with the state governments where appropriate to try and help those who are involved. We will continue to do that. As for the technical question, I will see if either my department or perhaps Treasury want to give a more definitive answer. If they do, I will report back to you.

**Senator BOLKUS**—Mr President, I ask a supplementary question. I refer to the minister’s effusive offers of help. Can the minister confirm in this context that the Commonwealth has not agreed to requests for assistance from the South Australian government to help the bushfire affected communities to recover? I refer specifically to the request from the state government to the Commonwealth for it to match the \$6 million costs incurred by the South Australian government. Also, why is the Commonwealth billing South Australia some \$60,000 per week for the Army Reserve currently assisting on the Eyre Peninsula? Did the Commonwealth demand a \$100 million indemnity from the South Australian government before providing this Army Reserve assistance? Minister, why is the government taxing South Australian government assistance and not matching it?

**Senator IAN MACDONALD**—Senator, again you are asking me a question about the defence department. We have a most fabulous defence minister in Senator Hill. In fact, Senator Hill just indicated to me that the indemnity is being waived. I am also told—and have read media reports—that the Premier of South Australia is very happy with the response from our Prime Minister on that particular issue. Senator Bolkus, this seems to be a typical Labor Party approach. I would hope that you might have learnt the lesson that you should not just raise these figments of your imagination and put them down as government initiatives. You should make

sure your facts are correct. Senator, time does not allow me—

*Opposition senators interjecting—*

**Senator IAN MACDONALD**—to go into the detail of the supplementary question, but I will get answers for you to all of those particulars and let you have them, as I have done in the past.

**The PRESIDENT**—Order! I remind senators that shouting across the chamber is disorderly. I also remind senators to address their remarks through the chair.

**Ms Cornelia Rau**

**Senator ALLISON** (2.27 p.m.)—My question is to the Minister for Immigration and Multicultural and Indigenous Affairs. Can the minister assure the Senate that all footage from security cameras inside the Baxter detention centre covering the period of Cornelia Rau's imprisonment will be provided to the inquiry being conducted by Mr Palmer?

**Senator VANSTONE**—Senator, I did ask for an email to be sent—and I am advised that it was sent—to ensure that video footage was still there. Why would you expect it would not be? I can tell you why you would not: you are a conspiracy theorist. In any event, I assume that there will be some footage from the approximately one week that Ms Rau spent in the management unit. The advice that I have—which is verbal advice at this point—is that there are no cameras in the rooms in the Red One compound, which is really a compound with far fewer people and some restricted movement but which might otherwise be opened up as a normal compound. All of the areas of Baxter have some cameras. I cannot say that every piece of footage of everything that happened everywhere in Baxter is being kept—I cannot say it is not, either, because there would be unrelated areas. I will check as to whether people are going to put aside—or whether we rou-

tinely keep anyway—the standard video footage of, for example, the exercise areas and things like that. But of particular concern is the management unit—that was what was raised with me the other day and I asked that that be done.

I am happy to ask for that to be done. I started to allude to this in an answer earlier. Last night, instead of focusing on what has happened and what was done—and it is my job to do that—I took the opportunity when everyone had gone home to start going through the media coverage and have a look at what the rest of Australia has been told. I indicated that there is something of a gap. For example, Senator, you might be relying on statements that Senator Wong was relying on here yesterday when she asserted that the Public Advocate in South Australia had raised this matter some two months ago. Do not look at me quizzically, Senator Wong; you raised it—your memory cannot be that short. The ABC obviously relied on them when they asserted that the Public Advocate had been arguing with the immigration department for two months over this issue. Michelle Gratton obviously relied on it when she made the same assertion on Radio National.

**Senator Allison**—Mr President, I raise a point of order. The minister is debating a matter which has nothing to do with my question. I ask her to focus on the question asked.

**The PRESIDENT**—Minister, I remind you of the question. I also remind you and other senators to address their remarks through the chair.

**Senator VANSTONE**—Thank you, Mr President, for reminding me of the question. I assure the senator that I am concerned about the facts in the matter and that is why I want to make sure that relevant videos are retained. It might be of interest to senators to



know that I have correspondence from Mr Harley, the South Australian Public Advocate, seeking to correct an impression made by O'Brien, who says—that is another point—that he had been contacting DIMIA about Ms Rau since early December. He says he was not. He says:

I was first notified by refugee advocates of Ms Rau's case in December. I did not contact DIMIA—

you could put in a full stop but it goes on—because it—

DIMIA, I suppose—

considers I am a state official beneath contempt.

**Senator Allison**—Mr President, I raise a point of order. The minister continues to ignore the question. Can I suggest that you advise her that she has an opportunity after question time to take note of her own answers or anybody else's answers, for that matter.

**The PRESIDENT**—The minister has 20 seconds left to answer the question. Obviously you will have a supplementary question. I am sure she will get back to the subject.

**Senator VANSTONE**—I will try to put it as briefly as I can. I have indicated that I have already given an instruction through my office for videos to be retained. That relates to the management unit. I will make inquiries as to the other standard videos that cover the general areas of Baxter.

**Senator ALLISON**—Mr President, I ask a supplementary question going to the first question. Will the minister advise the Senate when she will know whether that footage has been retained, and will she advise the Senate accordingly? Can she also answer the question that was raised by my colleague Senator Bartlett yesterday regarding whether eyewitnesses—asylum seekers in the detention centre—would be providing evidence to Mr

Palmer? Will there be a record of that evidence kept and will it be made public?

**Senator VANSTONE**—Thank you for the question, Senator. I note your complete lack of concern for a fundamental misunderstanding of the facts portrayed to the Australian community and in this parliament. Frankly, I expected something of a different response when allegations with respect to the South Australian Public Advocate have been made that are simply untrue. It is a matter of interest what the South Australian Public Advocate did do and I will follow that up through other courses. As soon as I know the answer in relation to the videos I will give you the answer.

#### **Economy: Foreign Debt**

**Senator SHERRY** (2.34 p.m.)—My question is to Senator Minchin, representing the Treasurer. Is the minister aware that Australia's current account deficit increased to \$50 billion in the last 12 months, causing Australia's net foreign debt to spiral to \$406 billion, or almost half the value of Australia's gross domestic production? Is the minister aware that last November the International Monetary Fund warned the government about the 'potential risks stemming from the sustained high current account deficit and the build-up of external private debt'? In light of this authoritative warning on Australia's economic risks, why has the Howard Liberal government taken absolutely no action to bring the current account deficit and foreign debt under control?

**Senator MINCHIN**—I appreciate the opposition's new-found interest in economic matters, and we look forward to that continuing for the next three years. We welcome their cooperation in helping to maintain the Australian economy as one of the strongest economies in the world. Senator Sherry is broadly right about the statistics. We are running a current account deficit of approxi-

mately six per cent of GDP. There are some pretty clear reasons for that. One of the obvious reasons is the very strength of this economy relative to other economies in the world. That has been highlighted by the OECD in their recent report. There is a desynchronisation, as they describe it, between the Australian economy and the global economic cycle. That means that to the extent we are growing much faster than other countries in the world we are sucking in imports, given the strength of domestic demand, and there is a limited market for Australian products, given the situation in other markets around the world. We have a strong currency at the moment, which is affecting the current account. We also have the consequential effects of things like the drought which have limited Australia's exports for natural reasons.

There are clear reasons why we have had a situation where imports are running ahead of exports, and that has produced a current account deficit. It should be kept in mind that Australia has a very clear and strong capacity to service that debt. The debt-servicing ratio—that is the proportion of our export earnings required to pay interest on our debt—was nine per cent in the September quarter. That is well below the debt-servicing ratio peak of some 20 per cent we had under Labor in 1990. Our capacity to handle that deficit and the debt is acknowledged around the world.

We have also restored Australia's AAA credit rating, which was lost during the Labor years. So we are in a much better position to deal with that debt. Australia does have the situation where the desynchronisation of our growth rates has produced a current account deficit situation, albeit virtually all of it is in the private sector, which is another point that should be borne in mind by Australians and by the opposition. The federal government are not contributing to this.

We have dramatically reduced the federal government component of foreign debt from that we inherited from Labor.

But all this does is highlight the critical importance of continuing the program of economic reform. If we are to ensure that Australia can sustain its strong growth rates without a dangerous blow-out in our current account deficit we have to sustain the flexibility and productivity of the Australian economy. To the extent that the Australian growth rate is such that we are importing, we have to be able to produce exports which the world wants and can buy and which we produce productively at prices the world can afford. That critically underlines the importance of the ongoing reform of our industrial relations system. We must get greater flexibility in our labour markets if we are to increase the productivity and flexibility of the Australian economy to allow it to take advantage of opportunities internationally.

The other thing that must happen is that our six state Labor governments must wake up to their responsibilities with regard to microeconomic reform and allow the flexibility we need in this economy to ensure that our exporters can get their exports out of Australia. A lot of the problems we are having at the moment with getting exports out of this country relate to state government responsibilities with transport infrastructure, ports et cetera. We have enormous pent-up demand for our products. We want to get them out. There are problems at the state level. I look forward to the Productivity Commission's report on microeconomic reform responsibilities. I look forward to the federal opposition joining us in driving microeconomic reform. (*Time expired*)

**Senator SHERRY**—Mr President, I ask a supplementary question. Is the minister aware that when in opposition the current Treasurer claimed that foreign debt, which

was then less than half its current level, posed a serious threat to mortgage interest rates? Given that family mortgage payments are already at record highs, how can the government justify its current complacency?

**Senator MINCHIN**—Senator Sherry speaks on behalf of a party which is the world expert in high interest rates. What the Labor Party did back in the late eighties and early nineties when it had economic problems was to clobber the economy. So what is Senator Sherry saying? Is he saying that the answer to the current account deficit is to clobber the economy like the Labor Party did when in government? Should we whack up interest rates to 17 per cent, 18 per cent or 20 per cent, drive hundreds of thousands of Australians out of jobs and destroy the economy? No. We want a highly flexible employment-creating, job-generating economy and we want the Labor Party to join us in ensuring that that can occur.

#### **Environment: Water Management**

**Senator LEES (2.40 p.m.)**—My question is to Senator Ian Campbell, Minister for the Environment and Heritage. Is the minister aware that the National Competition Council has recommended to the Treasurer that competition payments to New South Wales be cut by some \$26 million because New South Wales has failed to provide adequate environmental water allocations in stressed and overallocated river systems across the state, despite agreeing to this under the COAG water reforms? What is the minister planning to do to insist that states meet their agreements and ensure that environmental flows are there in all their river systems? In particular, how is the Commonwealth going to ensure that the 500 gegalitres of water promised as part of the Living Murray agreement can actually be found?

**Senator IAN CAMPBELL**—I thank Senator Lees for what is a very important

question when so much of the community's attention is turning to how we not only sustain the drinking water requirements of Australians going into the next decade but also, very importantly, supply the environmental flows that are needed for the health of our rivers and our wetlands—and of course for industry and agriculture. It is a very large public policy issue and Senator Lees knows better than most senators here that the Commonwealth has provided significant leadership in this area, both on the Murray River and elsewhere.

I remind honourable senators that the coalition government, under John Howard's leadership and under the environmental leadership of Senator Robert Hill and Dr David Kemp before me, has also invested in projects across something like 2,000 other rivers in terms of river repair as well as wetland repair. All honourable senators would have been horrified to see the damage to the Macquarie Marshes. That damage, although it began with an act of God—we might call it that as it was a lightning strike—was the consequence of very poor water management, which can only be sheeted home to the relevant state government in that context. The impacts on the long-term biodiversity around Macquarie Marshes, for example, are yet to be determined. Whether it can ever recover is a big question.

Senator Lees would also know not only that the Commonwealth is putting money through Rivercare and other Natural Heritage Trust programs—as well as the Living Murray initiative—but also that we announced in the election campaign a \$2 billion water fund, which we hope through three main programs will provide sustainable water for communities and sustainable environmental flows for Australians of future generations. It is part of the Commonwealth's and the Prime Minister's commitment, amongst the four or five key outcomes

he has set for achievement for this term of his government, to achieve what he has called 'a sustainable continent'.

To get environmental flows and get the states to follow through on commitments made at COAG the first thing we need to do is to have the state premiers stand by their commitments to the national water agreement and the National Water Initiative. In a fit of pique the Labor comrades of the then Labor leader Mark Latham walked out of the agreement during the federal election campaign. It was a fun political stunt but none of the premiers have come back. We are hoping, and we are getting some good signals, that the state Labor parties will re-sign to the National Water Initiative and they will recommit themselves, for example, under clause 25 of that agreement, to identifying high-conservation rivers and wetland systems and to putting in place protection regimes for them.

The Commonwealth has in recent days received a substantial report on how we may seek to progress the protection of those river and wetland systems. One of the suggestions is heritage listing some of those rivers to provide the added protection of the Commonwealth's world-leading environmental law. That is something that I would like to look at over coming weeks. But we do need a lot more, and the fundamental basis of it is getting the state premiers to sign back up to the National Water Initiative. I was very pleased to see that Colin Barnett, the Liberal leader in Western Australia, has said that if he is elected he will in fact sign up. That is tremendous news. I hope Mr Barnett's decision sends a signal to the premiers. (*Time expired*)

**Senator LEES**—Mr President, I ask a supplementary question. In the case of South Australia, Minister, it has not mattered whether it is a Liberal or a Labor govern-

ment. SA Water is still not split into two parts as is required under the agreement. It seems that neither party there is interested in doing this. Does the minister agree that the failure to do this basically means that SA Water is just in the business of making money by selling as much River Murray water as it possibly can? We did not have restrictions in Adelaide until very late. We were one of the last capital cities to get restrictions because basically SA Water wants to make money. So I ask again: what can you specifically do to insist that the states, whoever is in government there, make an agreement and then stick to it?

**Senator IAN CAMPBELL**—You can only do things by agreement with the states, and the great incentive structure that the Prime Minister has put in place is to say that if you want access to the \$2 billion under the Australian water fund program then you need to have signed on to the National Water Initiative. We do not want to hand out massive amounts of Commonwealth taxpayers' money to projects that do not deliver long-term outcomes for the environment and for sustainability.

The fundamental importance of the National Water Initiative is to get rational pricing into water. It is absurd for us to be pumping out thousands of gallons of River Murray water which is being flushed down the toilet once and then pumped out into the oceans when that water could be properly reused. We have to ensure there are proper incentive processes in place to ensure water authorities right around the country use water in a sensible and efficient way, and that is a big part of the answer to waterproofing Australia. That is why the Commonwealth is providing that money, that is why we need the National Water Initiative in place and that is why we need the premiers to stand by their agreements. (*Time expired*)

### Economy: Foreign Debt

**Senator LUNDY** (2.47 p.m.)—My question is to Senator Hill, the Minister representing the Minister for Trade. Does the minister recall his Prime Minister's promise:

I can promise you that we will follow policies which will ... bring down the foreign debt.

... ..

Our first priority as Peter Costello and I have made repeatedly clear ... will be to tackle the current account deficit.

Can the minister confirm that under the Howard government Australia's foreign debt has more than doubled to hit a record high \$406 billion and that net exports have made no positive contribution to GDP for the past 3½ years? Don't these figures indicate the abject failure of the Howard government's trade policy?

**Senator HILL**—We have in this country one of the most successful economies in the world, and we have achieved that through good economic management—in the first instance by cutting back on expenditure, which the Labor Party, when it was in government, was unable to do. Remember the situation that we inherited from Labor: \$10.3 billion of debt in that one year alone that Labor ministers refused to acknowledge. So we cut back on expenditure. We took hard decisions. On every occasion those hard decisions were opposed by the Labor Party. We started to reform the industrial relations system to build more efficiency into our labour market. That was opposed by the Labor Party. Through lowering expenditure we were able to bring interest rates back from the Labor Party's record high levels to record low levels. This encouraged investment by Australian business, and out of this we have built a very strong economy. I could add tax reform as well. We took the hard decisions on tax reform that benefited businesses to encourage them to employ and grow, and

that has also contributed to the strong Australian economy.

However, it is true that an aspect of our prosperity is that we are sucking in imports at a high rate. It is simply related to the success of our economy in that regard, and it is important that we grow the export side of the equation. That is important. How do we do that? One of the ways in which we do it is to continue down the reform path. That will require an even more efficient labour market and new industrial relations laws. What will the Labor Party do when we put those bills requiring a more efficient labour outcome before this Senate? It will vote against them. When the Labor Party decides to support measures that will improve our export outcomes, then it might have a reason to enter this debate, but until it is prepared to do that, it has no legitimacy in this debate.

As was said by Senator Minchin, the Labor Party had a high current account deficit when the country could not afford it. The difference is that at the moment the economy is very strong.

*Opposition senators interjecting—*

**Senator HILL**—It is. That is a matter of fact, because we have not driven down productivity in the way the Labor Party did. The Labor Party gave us both: a high current account deficit and a poorly performing economy. That is why we were in trouble. But the answer, as Senator Minchin said, is to maintain the strength of the economy. We will not do what the Labor Party did. We remember what Mr Keating did. He put interest rates up and up until he had put one million Australians out of work. We are not going to go down that path. We will continue to grow efficiency through sound economic and legislative reform, and we will give the Labor Party another chance to vote for some of those reforms, but I bet you they will not.



**Senator LUNDY**—Mr President, I ask a supplementary question. In asking it I acknowledge Senator Hill's rather flamboyant rewriting of Australia's economic history. Does the minister recall the current Treasurer's infamous statement in 1995: 'My analysis is that this is a government that has completely failed Australia on the current account deficit and produced the highest current account deficit ever, which is a total failure of economic policy. That is my analysis'? Can the minister confirm that the current account deficit in 1995 was \$26 billion, while the current account deficit in the last 12 months was \$50 billion? Minister, on the Treasurer's analysis, isn't this a major economic failure of the Howard government's trade policy?

**Senator HILL**—What I will remind the honourable senator of—if you listened to her question you would not believe this is true—is that Australian exports recovered in 2004, growing 8.3 per cent in value terms. Exports rose \$11.7 billion to \$152.5 billion in 2004, the second highest recorded level of exports. Under our policies exports have continued to grow strongly, but imports are also growing strongly because of the strength of the domestic economy. Therefore, in terms of our export outcome, we need to do even better. We need further structural reforms to achieve that goal, and that will require legislation to be passed by this chamber. Instead of complaining, the Labor Party will have a chance to vote on these reforms, particularly industrial relations reforms, and we will see what they will do on those occasions. (*Time expired*)

#### **Family Services: Family Payments**

**Senator EGGLESTON** (2.53 p.m.)—My question is addressed to the Minister for Family and Community Services, Senator Patterson. Will the minister inform the Senate of how the Howard government's strong

economic management is delivering benefits to Australian families?

**Senator PATTERSON**—I thank Senator Eggleston for his question. My answer follows on from the comments made by the Leader of the Government in the Senate referring to our strong economic management. Because of that, I have announced today that we are bringing forward our election commitment to increase family tax benefit B by \$300 per year. This commitment was originally to have commenced on 1 July 2005, but we have decided to bring the payment forward by six months. This means that Australian families will start to accrue entitlement from 1 January this year and will be eligible for up to \$150 when they lodge their 2004-05 tax return.

After the overwhelmingly positive reception of the \$600 per child increase to family tax benefit A, we have decided that the \$300 increase will also be paid as a lump sum. Families told us that this allowed them to purchase items such as school uniforms, pay for special sporting activities or replace household goods. From next year, families will be eligible for the \$300 payment after they lodge their tax return. This measure will benefit over 1.3 million Australian families and be worth almost \$2 billion over five years. As the shadow Treasurer has come to realise, albeit very slowly, this \$300, like the \$600 per child, is real money. Increasing this payment for stay-at-home parents—and they are usually mothers—is another example of how the Howard government is seeking to improve choices for families in balancing work and caring responsibilities. This builds on our already strong record of supporting families.

We have introduced the 30 per cent child-care tax rebate on out-of-pocket child-care expenses. Eligible families now receive an average of \$7,000 per year in fam-

ily assistance. The \$3,000 maternity payment was introduced in July 2004 to assist families with the cost of caring for a new baby. Child-care places increased by a massive 83 per cent. Quarantining the FTB B for secondary earners who return to the work force, announced in the last budget, will soon be in place. Families have always been central to this government's deliberations, but they are affected by decisions we make across portfolios. The new family impact statement will formalise cabinet's deliberations of the impact on families of all new policies.

Another initiative to directly assist families that I have announced today is our contribution of \$4 million for the development of a national parenting information web site. This will provide easy access to quality information on child health and development and parental wellbeing and services and no doubt will include the web sites to which Senator Coonan referred earlier. A further achievement of this government is the enormous reduction in overpayments of family tax benefit. Through initiatives that we have put in place, overpayments have been reduced by 75 per cent.

The Howard government is about choice and almost 800,000 families have taken up the More Choices for Families options. Choice, combined with initiatives such as the \$600 per child family tax benefit A supplement and the \$600 bonus per child before June last year, is making a difference to Australian families. Only the Howard government has policies that really assist Australian families, and our record goes to prove it.

**Senator EGGLESTON**—Mr President, I ask a supplementary question. Will the minister advise of any other benefits the Howard government's policies have brought to the Australian community; and will she explain why the government will not be adopting

alternative policies to the ones she has outlined?

**Senator PATTERSON**—When we look at the policies Labor put forward at the last election, I would not think that we would be adopting them. When we found that they had policies where lower income families were going to be worse off, and particularly worse off the more children they had, that beggared belief—although those families were being told that they would be better off fortnightly and worse off annually. They had a child maternity payment where only nine out of 10 mothers would benefit—and then it would depend on when they had the child.

Senator Eggleston, I do not think we would look at any of the policies coming from the other side. What Labor needs to do is to make sure that it can develop some economic credentials and demonstrate that it could run an economy soundly so that it could give dividends back to families, as we have been able to do in providing enormous assistance. As I have said, families are now receiving, on average, \$7,000 per annum—and that does not include the assistance of the child-care benefit.

#### **Economy: Foreign Debt**

**Senator COOK** (2.58 p.m.)—My question is addressed to Senator Hill as the Minister representing the Minister for Trade. Can the minister confirm that last financial year Australia recorded a trade deficit with the United States of \$10.5 billion, a trade deficit with China of \$5.4 billion and a trade deficit with Thailand of \$1.2 billion? Can the minister confirm that the government's own economic study shows that the FTA with the United States will significantly increase our trade deficit with that country over the next 20 years? Minister, why are you claiming that FTAs your government has either negotiated or is considering, such as a possible FTA with China, will fix our trade deficit

when, in fact, your own report shows that the FTA with the US will increase our trade deficit and the current account deficit for the next two decades?

**Senator HILL**—I am surprised at the gall of Senator Cook to ask a question on this subject, because Senator Cook, as a senior economics minister in the Keating government, claimed that the budget was in surplus when it was \$10.4 billion in deficit—which is a demonstration, I think, of the economic credibility of that government that left Australia in such a disastrous economic position. What was worse was what it did to ordinary Australians. It pushed a million Australians out of work and destroyed many Australian small businesses. That was the economic recipe of the Labor Party. That is the credibility that they claim to be the basis of the policies they are going to put forward in the future. They ask us to look back to the times of Keating as a basis for when they did things properly. I gather from the question that has been asked today by Senator Cook that he is still on the same wavelength.

This government has had a different approach. This government has built prosperity through, firstly, strengthening the domestic economy. It has tackled areas of weakness such as industrial relations, which this government has significantly improved. It has tackled the need for taxation reform, in which it ultimately succeeded, and it has tackled the need to get expenditure back under control—something that the Labor Party were never prepared to do. What did they do when they were in trouble? They taxed more or borrowed more, or did both. This government knew that you could not have a prosperous economy if you continued down that path. So this government is the proud proponent of reform in these areas, and the outcome has been one of the most successful economies in the world.

We have also said that, to succeed as a relatively small nation in a globalised trading world, it is necessary to open up market opportunities, because only then can you take full advantage of the strength of the domestic economy. That is why we have moved away from the failed Labor formula on free trade to look to open up new markets. We believe that we have done that very successfully in agreements with Singapore, Thailand and the United States. We are now negotiating with the United Arab Emirates, and others are in the pipeline. That will give successful, efficient Australian businesses the opportunity to enter export markets that they have not had in the past.

In relation to the United States, which was referred to by Senator Cook, it gives an opportunity to get into that massive government procurement market that we have never really had access to in the past. We will still have to have efficient business in Australia to take that advantage. We therefore still have to have governments in this country that are prepared to take hard decisions, and hopefully we will have parliaments in this country that are prepared to support such governments in doing so—although we have never seen it from the Australian Labor Party.

That gives an opportunity for success in our export market as well as in the domestic market. As I have said, our exports are growing strongly. We are succeeding in that regard. At the same time, our imports have grown. That is as a result of the prosperity of many Australians who, under the Australian Labor Party, could not afford the purchases they are making now. There are two ways to go: you go back to the Keating recipe and you say, 'There's a current account deficit; push interest rates up again and force businesses out,' or you go down our path. (*Time expired*)



**Senator COOK**—Mr President, I ask a supplementary question. I note that the Minister for Defence has never answered any of the questions I have put to him before. Is the minister aware that the average annual growth in exports under Labor was 8.1 per cent and that the average annual growth has been more than halved to just 3.6 per cent under the coalition? Given that Australia's terms of trade are at a 30-year high, why has the government dropped the ball in this key area of economic management?

**Senator HILL**—I will tell you the story. Under Labor, when there was an economic collapse in Asia the Australian economy would have collapsed. Under the Howard government, because we got the domestic fundamentals right, the Australian economy was able to continue to flourish. But it did so largely on domestic growth. As we have got past the drought, as we are getting past the economic problems within Asia, as we have got past SARS and as we have opened up export markets, the opportunity is there for growth again. As I have said, in the last year growth was 8.3 per cent. Even on Senator Cook's figures that is higher than the Labor Party average. So that is heading in the right direction, but it is going to require continued domestic reform to ensure that our producers remain competitive and take full advantage of the new opportunities. (*Time expired*)

**Senator Hill**—Mr President, I ask that further questions be placed on the *Notice Paper*.

#### QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

##### South Australia: Bushfires

**Senator IAN MACDONALD** (Queensland—Minister for Fisheries, Forestry and Conservation) (3.05 p.m.)—For Senator Bolkus's benefit, I have the relevant tax expert from the relevant department here to give me some advice in relation to tax mat-

ters and grants. I will pass that on to Senator Bolkus. Government grants that are provided to resident individuals and families are not taxable. For example, the Commonwealth ex gratia payments are not taxable. Business related grants are treated as assessable income, but the associated expenditure is deductible either immediately or over a certain period of time, depending on the nature of the expenditure. For example, a South Australian farmer who immediately spent the entire amount of the business grant on, say, feed for his livestock would claim that as a deduction.

The assessability of grants has been a longstanding feature of the tax laws. South Australian businesses have not been singled out. The same laws applied to businesses affected by the 2003 bushfires in Canberra and Victoria. They were treated the same. Given the devastating effect of the bushfires, the Commonwealth has provided a comprehensive relief package which better targets and assists those affected. The Commonwealth initiatives include the provision of family and community grants through Centrelink and crisis payments.

Centrelink granted 48 claims totalling approximately \$15,000 in the period up to when the Australian government ex gratia assistance was announced by Minister Hockey on 14 January. Regarding the ex gratia payments, as at 7 February this year—a couple of days ago—Centrelink has received 355 claims and, as of today, about 262 have been processed. Approximately \$285,000 in ex gratia assistance has been paid to date. Payments of \$1,000 per eligible adult and \$400 per eligible child are available to those whose principal place of residence has been destroyed or is uninhabitable and to those who have lost an immediate family member as a result of the fires. Centrelink has also provided staff to assist on the ground, includ-

ing customer service staff and additional psychologist and social work resources.

The Senate would be aware that under the natural disaster relief arrangements the Australian government will reimburse the South Australian government 50 per cent of expenditure on eligible personal hardship and distress, including emergency payments to individuals for food, clothing and accommodation; essential repairs to housing and repairs or replacement of essential items of furniture and personal effects; and psychological counselling. If the expenditure exceeds certain thresholds the Australian government will reimburse the state up to 75 per cent of the cost of eligible measures considered appropriate by the South Australian government, such as the restoration and replacement of essential public infrastructure, loans and/or interest subsidies grants provided to farmers, and other acts of relief and restoration. Senator, you would be aware that these are arrangements in place under the natural disaster relief arrangements that apply to all natural disaster reliefs and which have been in place for some time.

There was assistance from the ADF, and I have mentioned that previously. In addition to that, the Attorney-General has approved a request for Emergency Management Australia to coordinate the provision of Australian government resources to aid the Eyre Peninsula disaster recovery clean-up. The tax commissioner has been helpful as well. He has given help in the form of a comprehensive assistance package to help those taxpayers affected by the bushfires meet their tax obligations, including more time to meet income tax and activity statement lodgment obligations, additional time to pay debts without extra interest charges and expediting refunds to affected taxpayers. The tax office has given out copies of tax office documents where the original documents have been destroyed in the fire, given people copies of

their own documents and made field visits to reconcile lost records.

As I mentioned earlier, the Howard government has done quite a lot to try and help in these tragic circumstances. I know that various departments, including my own, are looking at ways that we could assist—in our instance, perhaps through the Natural Heritage Trust and other programs that the government runs. We certainly want to work with South Australia to this end, and I think the South Australian government well appreciates the work that the Commonwealth has done.

#### **Marriage: Gender Reassignment**

**Senator COONAN** (New South Wales—Minister for Communications, Information Technology and the Arts) (3.11 p.m.)—On 12 August last year, during the committee stage of the **Marriage Amendment Bill 2004**—and I refer to page 26571 of *Hansard*—Senator Nettle asked, in relation to people who are currently married and subsequently undergo gender reassignment surgery, whether their relationship and marriage will still be recognised under the law. I said I would refer the question to the Attorney-General, and I have the answer today. The Attorney-General has provided the following answer to the honourable senator's question. It is not appropriate for the Attorney-General to give legal advice. However, he considers that the decision of the full Family Court in re Kevin establishes that the validity of a marriage is determined at the time it is solemnised and that the new definition in the Marriage Act 1961 does not mean that a marriage will be annulled or otherwise made invalid because one of the parties to it undergoes gender reassignment surgery.

#### **Indigenous Affairs: ATSIS**

**Senator VANSTONE** (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assist-

ing the Prime Minister for Indigenous Affairs) (3.12 p.m.)—I seek leave to incorporate in *Hansard* an answer to a question Senator O'Brien asked me during question time on 1 April 2004.

Leave granted.

*The answer read as follows—*

**Senator O'Brien** asked the Minister for Immigration and Multicultural and Indigenous Affairs, during question time on 1 April 2004, the following questions which were taken on notice by Senator Vanstone:

Can the Minister confirm that her Indigenous affairs agency, ATSIS, has withheld \$640,000 of vital infrastructure funding to the homelands in the Anangu Pitjantjatjara lands during the current financial year? Can the Minister confirm that this funding was withheld while a review of capital works projects was undertaken, denying homeland communities essential services during the hottest months of the year? Is it the case that the review was completed in January this year, and in fact made favourable findings about the capital works program, yet that funding continues to be withheld? Minister, why do you continue to withhold funding for essential water and power works in the AP lands, thus denying some of the most disadvantaged people in Australia access to basic services?

**Senator Vanstone:** The Office of Indigenous Policy Co-ordination has provided the following information in response to the honourable Senator's question:

There was a delay in providing ATSIS funding in 2003/2004 for this purpose which ATSIS advises was due to the lack of co-operation by Anangu Pitjantjatjara in the conduct of a regional energy plan which it had agreed to originally but then changed its position. However, no homelands were denied services at any stage including in summer. Moreover, at no stage did I withhold funding for this purpose. The sequence of events in relation to this matter is as follows:

- In 2003-04 ATSIS allocated \$800,000 for power and water projects on homelands in the Anangu Pitjantjatjara Lands (APY lands).
- On 29 August 2003, the first tranche of that \$800,000, an amount of \$80,000 was released to Anangu Pitjantjatjara (AP) for emergency power and water repairs and maintenance. The balance of funds was held pending the preparation of an energy plan for the Pt Augusta region (including the APY lands), which had been endorsed by the ATSIC Regional Council to ensure that the areas of greatest need were addressed with the limited ATSIS funding.
- Although agreeing to the energy plan in April 2003, AP changed its position and decided not to co-operate with ATSIS or Bushlight (the consultants contracted to prepare the plan).
- On 24 November 2003 the CEO of ATSIS and the Secretary of Health and Ageing, the AP Lands COAG lead agency, met with AR it was agreed that the energy plan would proceed. At this meeting AP was also advised that funds would not be released until the plan was complete and that funding would go to Anangu Pitjantjatjara Services (AP Services) under contract. AP Services are the service delivery arm of AP.
- Visits to homelands for the purposes of preparing the plan commenced in December 2003. Additional funds were offered to AP so that their staff could accompany Bushlight on the visits. The final report was presented to ATSIS, AP and AP Services in early February 2004.
- To enable a contract to be prepared, ATSIS wrote on 20 February 2004, to the Chairperson of AP Services, requesting detailed costings for priorities highlighted in the plan.
- As no response to the request was forthcoming, despite a number of contacts being made with the organisation, on 19 March 2004 a meeting was held between ATSIS and AP Services staff to discuss the lack of progress.
- At this meeting, ATSIS was informed that the AP Services Chairperson, Mr Murray George, who is also a member of the AP Executive, had instructed his staff not to co-operate with ATSIS until he gave them permission.

- As a result of the delay in obtaining detailed castings and the announcement by the SA State Government on 15 March regarding the appointment of an Administrator for AP, ATSiS made the decision to explore other options for the delivery of these services to the AP Lands.
- A decision was made, given the lack of co-operation, to engage the services of the National Aboriginal Health Strategy (NAHS) Program Manager, Parsons Brinckerhoff (PB), to oversight and manage the entire project, including finances and on the ground delivery of the services.
- Funds were, however, still offered to AP Services under Contracted Program Manager Terms and Conditions on 23 April 2004.
- Funding was released in full to PB in May and works then commenced. It is expected that all of the funding will be expended by 31 October 2004.
- It should be noted that at 30 June 2003, AP Services had unexpended funds of \$531,000, from the previous financial year for power and water services on homelands. Those funds were available and were spent up until AP Services accepted the contract on 23 April 2004. Additional funding was also provided for emergencies and ATSiS is not aware that any homeland did not have access to services while the funding issues discussed above were resolved.

**Ms Cornelia Rau**

**Senator VANSTONE** (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs) (3.12 p.m.)—I wish to add to an answer I gave to questions asked of me during question time today. It has just occurred to me that I have a DLO who took suddenly and seriously ill in January. He is not back at work and is not expected to be, if at all, before the end of the February. He may have been contacted in relation to Ms Rau's matter. I do not know. I will ascertain whether it is appropriate to bother him in his current

condition in relation to that matter, otherwise my answer stands as correct.

**QUESTIONS WITHOUT NOTICE:  
TAKE NOTE OF ANSWERS**

**Answers to Questions**

**Senator BOLKUS** (South Australia) (3.13 p.m.)—I move:

That the Senate take note of the answers given by ministers to questions without notice asked today.

I particularly would like to go to the answer provided by Senator Ian Macdonald and the supplementary answer provided just a few minutes ago. On 11 January South Australians, particularly those on the Eyre Peninsula, experienced the state's worst natural disaster since Ash Wednesday some 20 years ago. You would have thought that, in the interim, governments at all levels would have been engaged in their plight in an endeavour to better facilitate their responses to them. We have seen a bipartisan response from the state government and from local members at a state level.

What we saw today and yesterday from the federal government was a minister with responsibility in the area but with no real knowledge of the plight of those people who have been affected and no real knowledge of what is needed at the federal government level. We had rhetoric, but we have not had federal ministerial involvement in this particular natural disaster, one of the biggest in the state's history. He showed no idea of the issue in question time today, and in the supplementary answer all he has done is confirmed the ridiculous nature of the federal government's response. If you are an individual resident and you get a grant then you are not taxed. If you are a business you are taxed. If you are a business and you get the grant from a charity then you are not taxed. If you are a business and you get the grant from government then you are taxed.

Saying that you can claim a tax deduction for what you purchase gives no joy to the people involved. Their needs are immediate and their expenditure is immediate. A lot of the expenditure that they will incur will be for plant and equipment which, for tax deductibility, works on a depreciation schedule. Many of the tax deductible items will not materialise in the hands of the farmers for quite some time. This is the ridiculous situation that I raised in question time. This is a situation that the government has not been on top of and farmers on the Eyre Peninsula on west coast of South Australia are concerned about it.

In this particular instance, high-level engagement was needed. There was engagement by the South Australian state government. They sent ministers and staff over there. They have worked with the community and put programs in place. But, up until a few minutes ago, the request for assistance with the reconstruction contained in a letter which was sent from Premier Rann to the Prime Minister on 11 January had not been responded to. Almost four weeks later we still have not seen a written response from the Prime Minister. That request to assist with the reconstruction has fallen on deaf ears. Six million dollars was incurred by the South Australian government. We were told today that, up until now, Centrelink has expended \$285,000. That, together with the cost of the defence minister's visit of one hour or so to the peninsula, is about the only cost incurred by the federal government in this matter.

A much faster reaction was needed from the Prime Minister and ministers. That did not happen. On top of that \$6 million fiasco, there was a request for the Army Reserve. The Army Reserve are there now doing a good job. But, Minister Hill, they got there on the Sunday evening and they were not able to engage until the Wednesday morning,

because there was a demand for a \$100 million indemnity guarantee on the state government. It took two days—two vital days in reconstruction—to sort that out. We should have a system in place, not just for this instance but also for the future, where those sorts of impediments and red tape do not hamper reconstruction efforts.

As well as that, yesterday and today the minister claimed that federal government assistance knows no bounds. Their demand for money knows no bounds. They sent over the Army Reserve to do a good job and then Senator Hill went over there with a bill for \$60,000 a week. Opposition leader Beazley raised the matter a week or so ago. It has been raised by the state government of South Australia. You would have thought that by now they would have desisted from that demand. That has not happened either.

As I said earlier, compensation will be taxed. These are four areas and four critical decision-making opportunities for the federal government. In each particular one, what we see is a pattern of disinterest and neglect, and no engagement by federal government ministers. The bureaucrats are doing a great job on their own. They have to work within the programs' limits and processes. But what is needed here is engagement by the federal government. We have not seen it. The federal government, unfortunately for Labor, represents most of South Australia, but it is taking the state for granted. This federal government is taking South Australian residents, particularly those on the west coast of South Australia, for granted. Across the country people are engaging, assisting and contributing. People are going out of their way to help the people over there. But this federal government, which has the power, responsibilities and resources, has dropped the ball. *(Time expired)*

**Senator CHAPMAN (South Australia)** (3.18 p.m.)—The issues raised by Senator Bolkus in this debate and during question time are quite erroneous and false. He has raised the issue of grants to victims of the bushfires on Eyre Peninsula in my home state of South Australia being taxable. The fact is that grants provided to resident individuals and families are not taxable. In terms of grants to businesses, while they are treated as assessable income, obviously the associated expenses are deductible. What Senator Bolkus is suggesting is that these people, who are obviously in some need and warrant assistance—and it is assistance with which the Commonwealth government has been forthcoming because of the parlous situation in which they have found themselves as a consequence of their suffering from the bushfires—should be given a double benefit from the government. Fair is fair. They are being given support through these grants.

Those grants in effect will not be taxed because they will be used to purchase goods and equipment that will be tax deductible in due course. Therefore, no tax will be payable on the grants because of the application of the funds and the way in which they have been used. To ensure tax fairness, grants remain assessable income as far as taxation is concerned. In due course, because of the purpose for which the grants are used, they will receive a tax deduction. That is a long-standing feature of tax law. It is not simply something that this government has dreamt up and is applying. It has been a feature of tax law under all governments. Grants to businesses affected by the 2003 Canberra fires and the Victorian bushfires were not treated any differently in this regard. As I said, this longstanding feature is to ensure fairness in our tax laws, and fairness and equity in tax treatment.

The relief package which the Commonwealth government has provided to people

on Eyre Peninsula is substantial. Of course, that reflects the devastating nature and effects of these ravaging bushfires. This relief package specifically and effectively targets and assists those who are affected. Among the assistance and benefits provided is a crisis payment from the Department of Family and Community Services. This, of course, gives the lie to what Senator Bolkus said, which was that the Commonwealth has no concern for the victims of these bushfires. Centrelink granted 48 claims totalling some \$15,000 before the ex gratia assistance was announced by Minister Hockey on 14 January 2005. As soon as the impact of the bushfires on people was evident, those crisis payments were made available through Centrelink. They have now been subsumed by the subsequent announcement of the ex gratia assistance on 14 January. As at 7 February, at the beginning of this week, Centrelink had received some 355 claims, and 262 of those had already been processed. A total of approximately \$285,000 in ex gratia assistance had already been paid as at the beginning of this week.

Payments of \$1,000 per eligible adult and \$400 per eligible child have been made available to those whose principal place of residence has been destroyed or is uninhabitable and to those who have lost an immediate family member as a result of the fires. Also, very importantly, Centrelink has provided staff to assist on the ground, including customer service staff, an additional psychologist and social work resources to assist those devastated by these bushfires.

Then there has been assistance provided by the federal government, the Howard government, to the South Australian state government to assist in dealing with this disaster. Under the natural disaster relief arrangements, the Australian government will reimburse the state government 50 per cent of expenditure on eligible personal hardship



and distress, including emergency payments for food, clothing, accommodation, repairs to housing, the repair or replacement of essential items of furniture and personal effects, and psychological counselling. If the expenditure exceeds certain thresholds, the federal government will reimburse up to 75 per cent of the cost of these eligible payments. As Senator Hill reinforced earlier, the Defence Force Reserve brigade is assisting the South Australian government with recovery efforts through the provision and use of heavy equipment, front-end loaders, bulldozers and the like. (*Time expired*)

**Senator STEPHENS** (New South Wales) (3.23 p.m.)—I too rise to take note of answers to questions today, particularly a question from Senator Lees to Senator Ian Campbell about the National Competition Council's recommendation that New South Wales competition payments in relation to its water commitments be cut by \$26 million. It is of great concern to me, being a New South Wales senator, that there continues to be so much argy-bargy about the National Water Initiative and the commitments that the Commonwealth made to the states prior to the election being announced and then the sleight of hand that took place during the election campaign, which caused the New South Wales Premier and territory leaders to withdraw from the national water agreement.

That concern was expressed very extensively during the debate on the National Water Commission Bill, which took place in December last year. At that time the minister told this place that he was very confident that the premiers would re-sign, rejoin, the National Water Initiative, that that would happen very quickly and that efforts were in place to ensure that the concerns of the states were being accommodated. That obviously is not the case. We will all now see the National Water Initiative, once more, becoming

a political football instead of the national policy priority that it really should be.

The second question that I wanted to take note of was the question to Senator Hill about our current economic situation and the current account deficit, which could be as large as seven per cent of GDP this year, after it rose to \$7.4 billion for the three months to December, which is 12 per cent bigger than any previous record. The fact is that economists all over Australia have been warning that this is the case and that we have to do something about our external accounts. We know that Australia's accumulating foreign debt is at an absolutely unsustainable rate. We are missing out on what has been an extraordinary period of economic growth but which cannot be sustained in the future unless we give some financial security to Australians.

At the same time, we have a Senate Economic References Committee inquiry into the possible links between household debt, demand for imported goods and Australia's current account deficit. Several significant submissions to that inquiry have raised the concern that is now, very clearly, being raised by the Reserve Bank of Australia and the OECD—that is, as a nation we are no longer paying our way and we cannot continue to keep spending more than we are earning. Foreign debt has doubled under the Howard government, and right now we are one of the poorest performers in the world, with one of the world's highest foreign debt levels. We are now paying more than \$20,000 for every man, woman and child living in Australia. The concern that many economists and the OECD have raised is that this is leading to real concerns about our skills shortages and how we are going to manage that. We have economists saying that this situation is now going to create difficulties for Australia attracting foreign investors. We have many concerns about our levels of

infrastructure and skills constraints and the fact that the debt that we have in Australia is personal debt as opposed to government debt, which we know is unsustainable in the longer term.

**Senator FIFIELD (Victoria) (3.28 p.m.)**—I rise to take note particularly of Senator Hill's outstanding answers today in relation to the economy and some of Senator Stephens's comments. Why is it that the Labor Party never like to talk about net government debt? They only ever want to talk about foreign debt; they only want to talk about current account deficits. It is really quite odd, because there is a direct relationship between government debt and foreign debt. One almost gets the feeling that Labor have a little something to hide, something that they are uncomfortable talking about. It is very instructive to look at the relationship between foreign debt and net government debt to see why Labor are so shy.

Let us remember that when the coalition came into office net government debt was \$96 billion. We have reduced net government debt from \$96 billion to \$25 billion. It is a reduction from about \$5,200 per person in Australia to about \$1,200 per person. As a government, despite what Senator Stephens said, we are clearly living within our means. We do not need to borrow to fund our families package. We do not need to borrow to fund defence. We do not need to borrow to fund our health policies. We do not need to borrow to fund education. We do not need to borrow to fund infrastructure. As a government, we have not borrowed one dollar in net terms since we ascended to office.

We have among the lowest levels of general government net debt in the developed world. Our net debt to GDP ratio is among the lowest in the OECD. We are lower than Germany, lower than the total OECD, lower than the EU, lower than Japan, lower than

the US. We as a government are determined to maintain those low levels of net government debt. Why is this important? What does this have to do with the current account deficit and foreign debt? The answer is pretty simple: the more government borrows, the less money is available to borrow in Australia. That means that people have to go overseas to borrow to invest in Australia. So there is a clear relationship. We know that Labor cannot be trusted with the budget. We have seen that before. I have with me what I think is my all-time favourite press clipping, from 1 February 1996. It is usually tucked away in my coat pocket. It is one of our favourites on this side of the chamber. It quotes Mr Beazley, the then Minister for Finance:

We're in a position where we've got no plans to increase taxes ... Why would we? We're operating in surplus, and our projections are for surpluses in the future.

We all know the reality: it was a \$10 billion deficit. It is breathtaking that Mr Beazley and his team opposite seek to take the government to task on interest rates and foreign debt. Under the previous Labor government, of which Mr Beazley was an integral part, the debt servicing ratio rose as high as 20 per cent. We heard from Senators Hill and Minchin that that is now down to about nine per cent. It is instructive to look back at what senior figures opposite said in times past. Listen to this quote from 1995:

The best way of understanding the size of the foreign debt is to compare it to the size of the economy. Since September 1993, the size of foreign debt relative to the size of the economy has decreased. In other words, the economy has increased faster than the debt ... Debt is not a bad thing as long as you can support the debt, as long as you can repay it, so long as the borrowings are going into the economy and producing productive investment, producing jobs. Look at our record on ... growth.

That was from Senator Sherry in 1995. So in 1995 Senator Sherry was saying: 'Foreign



debt is okay as long as it's serving a purpose. As long as it's helping the economy, it's not a problem.' But he was not alone. There was another very substantial figure of Australian politics who had something equally interesting to say in 1995:

We have always been a country that has been heavily dependent on foreign capital. We are now even more attractive to that capital because we are a well managed economy. Foreign capital does not chase badly managed economies. Get that fairly clear in your head. Foreign capitalists or money lenders do not wander around the place looking for poorly managed places upon which to dump money. That is not their way. They lend money to people who look as though they will be capable of sustaining it. They look at countries like ours and the way that they are managed. They come to the conclusion that we would be capable.

That was from Kim Beazley in 1995. (*Time expired*)

**Senator COOK (Western Australia)** (3.33 p.m.)—In this chamber during question time the government have for the last eight or nine years been fond of trying to rewrite the economic record. They tried to do it again today. They think that endless repetition of the same group of arguments, irrespective of how poorly founded those arguments are, somehow makes those points true. Of course, it does not. It just means that people are mindlessly repeating the same old mistruths again and again. What would help debate not only here but in Australia generally about the economy would be a bit more of an impartial analysis of the Australian economy and a bit more recognition of the achievements that are quite monumental that have been rendered by the previous government—not to distort them but put them into a proper context.

The truth is that the strength of the Australian economy today is underpinned by the massive restructuring reforms made to the

Australian economy during the Hawke-Keating years. Economists outside this building would tell you that. Economists from the Treasury testifying before Senate committees have said that. The Prime Minister said that in 1996 when he was representing the strength of the Australian economy to a group of visiting businessmen. It is without argument.

The Hawke-Keating government floated the currency. The Hawke-Keating government liberalised banking in Australia. The Hawke-Keating government fundamentally restructured the Australian economy by introducing competition reform. It began the process of decentralising the wage-fixing system as well. It introduced sweeping micro-economic reform and, most of all, it gradually wound back the level of tariff protection in this country, slowly exposing the Australian economy to international competition so that domestic producers in this country could become more efficient internationally and we could succeed in the international global market. It did those things.

Those things meant that when the currency crisis in 1997 came along—about 16 months after the change of government—the Australian economy was in a sound position to withstand the ravages to the economies in our immediate region. Yet, to listen to the government, none of those things occurred and it was all done by miracles by them simply assuming office. The economic cycle does not conform to the political cycle. The economic cycle is a lot slower and changes at a much slower rate. But the economic cycle and the changes and reforms created by the previous Labor government are the foundations of the modern economy, and this government has surfed along on the back of those reforms, claiming credit for them wrongfully. As I said, outside this building any economist will testify to that. Any

economist will freely acknowledge the depth of those reforms.

Today we got into a bit of a joust about trade performance. Let me go to a comparative—compare and contrast—view of respective performances of the two governments. Under Labor, Australia's exports grew at an annual average rate of 8.1 per cent. Under this government, Australia's exports have grown by only 3.6 per cent. Under Labor, manufactured exports averaged annual growth of 11.5 per cent for the five years to 1996. Under the Howard government, manufactured exports averaged annual growth of only 3.2 per cent for the five years to 2003.

Under Labor, services exports averaged annual growth of 11.7 per cent for the five years to 1996. Under the Howard government, services exports averaged growth of only 4.8 per cent for the five years to 2003. Under Labor, Australia's share of global trade peaked at 1.22 per cent in 1989. Under this government, it is down to 0.98 per cent in 2003. Under Labor, net exports consistently made a positive contribution to economic growth, and under this government net exports have made a negative contribution to economic growth for the past three years.

To succeed in international trade you have to be competitive. The truth is that this country has become less competitive under the Howard government than it was under the Hawke-Keating government, and the lack of competitiveness does not go to the alleged reforming of the industrial relations system. It goes to the drying up of funds and incentives for research and development that enable our industry to become competitive at the cutting edge, where global demand is for the products this country, a smart and clever country, can produce. If you deny and shrink the funds for research and development, you

ultimately shrink your competitiveness and your exports. That is the tale of this government. (*Time expired*)

**Senator BARTLETT (Queensland)** (3.38 p.m.)—Today in question time we had more questions of the Minister for Immigration and Multicultural and Indigenous Affairs, Senator Vanstone, about what has become known as the Cornelia Rau case. There were a few answers from the minister, and a lot of other words came out of her mouth aimed at filling in the time while she avoided answering some of those questions. But one of the key aspects that has to continue to be challenged through questions of the minister, both in this place and in the public arena, is: will there be a genuine opportunity for the truth to come out?

It is not surprising that people are very cynical and very unsatisfied with the secret inquiry that has been announced to date. It is an old adage—and the reason that the adage is so old and has survived so long is because it is so valid—that justice must not only be done; it must be seen to be done. It is a bit hard for justice to be seen to be done if it is being done in a back room behind closed doors, so it is no wonder that people have little faith in the ability of this inquiry to get to the bottom, in a complete way, of everything that has happened.

This is not for the sake of pointing the finger of blame. I think we can point the finger of blame at the entire nation in many ways for our lack of proper understanding about mental illness and for some of the ways that people respond to mental illness when they are confronted with its reality. That is a failing of our whole society. So we do not need to get to the bottom of it all for the purposes of finger pointing or political point scoring. Indeed, if the focus is political point scoring, it will almost inevitably mean that the real questions are not answered and

the real opportunities to get some positive gains from this terrible incident will be lost.

But that is not an excuse for having everything done in secret. In fact, it is an extra reason not to have it done in secret, because as soon as things are covered up it provides more opportunities for people to focus on the political aspects. Because nobody knows what the truth really is, you cannot draw the debate down and narrow it down to the truth, the facts, the substance and what needs to be done as a consequence. It is all covered up, so people will just rely on other reports and other statements, and the debate will not be as focused as it needs to be.

So it was good to see the response from the minister today that she has tried to chase up and ensure that video footage from the closed-circuit televisions that are in every single one of the management unit cells in the Baxter facility and other video footage is available. I hope that that video footage does exist—it will be a real problem if it does not—and that it is provided unedited and complete to the inquiry. It still has to be ascertained that that will happen.

The other aspect of Senator Allison's question, which followed on from mine yesterday, is will the asylum seekers in Baxter who witnessed the way Ms Rau was allegedly treated be able to give evidence. That is a pretty straightforward question. The minister said yesterday, as she keeps saying, that she will do everything possible to get to the bottom of this. When I asked her yesterday, 'Will the asylum seekers give evidence?' she said: 'I will have to give consideration to that. I will take that on notice and get back to

you,' and then repeated her determination to get to the bottom of it.

If the minister and the government are so determined to get to the bottom of it, why do they even need to think about whether or not the only people who have witnessed Ms Rau's treatment in Baxter will be able to give evidence? They are the only eyewitnesses to her treatment, at least in Baxter, that are available. How could it even need a minute's thought? Yet, when she was asked again today, she dodged the question and did not answer it again, a day later. She said: 'The only eyewitnesses? Well, I'll think about whether they can give evidence and we'll see if there is any video footage as well.' It will all be in secret, even if there is any evidence. It is a very, very dubious idea that the truth will be complete and will be outed in this area. No wonder people are very sceptical about whether justice will be done. It sure as hell is not going to be seen to be done. We do not even know if the evidence of the only eyewitnesses to it is going to be able to be fed into the process. It is a key question and it is one the Democrats will continue to push. *(Time expired)*

Question agreed to.

#### MINISTERIAL ARRANGEMENTS

**Senator GEORGE CAMPBELL** (New South Wales) (3.43 p.m.)—I seek leave to incorporate in *Hansard* a list of the Beazley shadow ministry representation and parliamentary secretaries for the opposition in both chambers.

Leave granted.

*The document read as follows—*

**SHADOW CABINET & MINISTRY**

28 January 2005

<b>PORTFOLIO</b>	<b>SHADOW MINISTER</b>	<b>OTHER CHAMBER</b>
Leader	Kim Beazley	Senator Chris Evans
Deputy Leader; Education, Training, Science & Research	Jenny Macklin	Senator Kim Carr
Leader in the Senate Social Security	Senator Chris Evans	Tanya Plibersek
Deputy Leader in the Senate; Communications and Information Technology	Senator Stephen Conroy	Stephen Smith
Health; Manager of Opposition Business in the House	Julia Gillard	Senator Jan McLucas
Treasurer	Wayne Swan	Senator Nick Sherry
Industry, Infrastructure and Industrial Relations	Stephen Smith	Senator Stephen Conroy (Industry) Senator Mark Bishop (Infrastructure) Senator Nick Sherry (Industrial Relations)
Foreign Affairs and International Security	Kevin Rudd	Senator Chris Evans
Defence and Homeland Security	Robert McClelland	Senator Mark Bishop (Defence) Senator Joseph Ludwig (Homeland Security)
Trade	Simon Crean	Senator Stephen Conroy
Primary Industries, Resources and Tourism	Martin Ferguson	Senator Kerry O'Brien
Environment and Heritage; Deputy Manager of Opposition Business in the House	Anthony Albanese	Senator Penny Wong
Public Administration and Open Government; Indigenous Affairs and Reconciliation; The Arts	Senator Kim Carr	Nicola Roxon
Regional Development and Roads; Housing and Urban Development	Kelvin Thomson	Senator Kerry O'Brien Senator Mark Bishop
Finance and Superannuation	Senator Nick Sherry	Wayne Swan
Work, Family and Community; Youth and Early Childhood Education; Women	Tanya Plibersek	Senator Chris Evans Senator Kate Lundy Senator Kate Lundy
Employment and Workplace Participation; Corporate Governance and Responsibility	Senator Penny Wong	Jenny Macklin Kelvin Thomson
Immigration	Laurie Ferguson	Senator Joseph Ludwig
Agriculture and Fisheries	Gavan O'Connor	Senator Kerry O'Brien
Assistant Treasurer and Revenue; Banking and Financial Services	Joel Fitzgibbon	Senator Nick Sherry
Attorney-General	Nicola Roxon	Senator Joseph Ludwig
Regional Services, Local Government and Territories	Senator Kerry O'Brien	Kelvin Thomson

**CHAMBER**

PORTFOLIO		SHADOW MINISTER	OTHER CHAMBER
Manufacturing; Consumer Affairs		Senator Kate Lundy	Stephen Smith Kelvin Thomson
Defence Planning and Personnel; Assisting the Shadow Minister for Industrial Relations		Arch Bevis	Senator Mark Bishop Senator Nick Sherry
Sport and Recreation		Alan Griffin	Senator Kate Lundy
Veterans' Affairs		Senator Mark Bishop	Arch Bevis
Small Business		Tony Burke	Senator Kate Lundy
Ageing and Disabilities		Senator Jan McLucas	Julia Gillard
Justice and Customs; Citizenship and Multicultural Affairs; Manager of Opposition Business in the Senate		Senator Joseph Ludwig	Robert McClelland Laurie Ferguson
Pacific Islands		Bob Sercombe	Senator Chris Evans
<b>Parliamentary Secretaries</b>			
Parliamentary Secretary to the Leader or the Opposition			John Murphy
Parliamentary Secretary for Defence			Graham Edwards
Parliamentary Secretary for Education			Kirsten Livermore
Parliamentary Secretary for Environment and Heritage			Jennie George
Parliamentary Secretary for Infrastructure			Bernie Ripoll
Parliamentary Secretary for Health			Ann Corcoran
Parliamentary Secretary for Regional Development (House)			Catherine King
Parliamentary Secretary for Regional Development (Senate)			Senator Ursula Stephens
Parliamentary Secretary for Northern Australia and Indigenous Affairs			Warren Snowdon
<b>Chief Opposition Whip</b>	Roger Price	<b>Senate Whip</b>	Senator George Campbell
Whip in the House of Representatives	Michael Danby	Deputy Senate Whip	Senator Geoff Buckland
Whip in the House of Representatives	Jill Hall	Deputy Senate Whip	Senator Ruth Webber

## NOTICES

### Presentation

**Senator Ridgeway** to move on the next day of sitting:

That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by the last sitting day in March 2006:

The impact of climate change on agriculture, with particular reference to:

- the agriculture response, including land use practices, work practices and farming techniques;
- emerging regional industries and technologies; and

(c) other related matters.

**Senator Allison** to move on the next day of sitting:

That the following matter be referred to the Community Affairs References Committee for inquiry and report by 23 June 2005:

Current arrangements for the provision of mental health services in Australia, with particular reference to:

- the extent to which the National Mental Health Strategy has achieved its aims and objectives, including what factors have impacted on progress;
- the opportunities for current funding arrangements and agreements between the

- Commonwealth and state governments to better deliver services for people with a mental health problem or disorder;
- (c) the extent to which the National Mental Health Strategy and current level of mental health services has contributed to the over-representation of people with a mental illness in the criminal justice system, and within detention centres;
  - (d) the adequacy of the current legislative framework for protecting the human rights of people with a mental health problem in the criminal justice system and within detention centres, and including the effects of indefinite detention on the mental health of children;
  - (e) the capability of the current mix of mental health services to meet present and future demand for the entire spectrum of mental health services, including prevention, treatment and continuing care, in both metropolitan and rural Australia;
  - (f) the adequacy of education and support services available for families and carers of people with a mental health problem or disorder;
  - (g) potential methods for improving coordination and delivery of funding and services, across all levels and sectors of government, to ensure that appropriate and comprehensive care is provided throughout the episode of care, particularly for people with complex and co-morbid conditions and needs; and
  - (h) the proficiency of staff outside mental health services for dealing with individuals with mental health problems and disorders.

**Senator Bartlett** to move on the next day of sitting:

That the Senate—

- (a) notes:
  - (i) the announcement by the Papuan New Guinean Minister for Environment and Conservation to prohibit:
    - (A) from 1 January 2005 the importation and sale of plastic shopping

bags into Papua New Guinea (PNG), and

- (B) from 1 June 2005 the manufacture and sale of plastic bags in PNG, and
- (ii) that the Port Moresby Chamber of Commerce supports the PNG Government's moves; and
- (b) calls on the Federal Government to commit to:
  - (i) mandatory targets for reduction of plastic bag use in Australia by June 2005, and
  - (ii) banning of single use plastic bags in Australia by 1 January 2007.

**Senator Cook** to move on the next day of sitting:

That the following matters be referred to the Community Affairs References Committee for inquiry and report by 23 June 2005:

- (a) the delivery of services and options for treatment for persons diagnosed with cancer, with particular reference to:
  - (i) the efficacy of a multi-disciplinary approach to cancer treatment,
  - (ii) the role and desirability of a case manager/case co-ordinator to assist patients and/or their primary care givers,
  - (iii) differing models and best practice for addressing psycho/social factors in patient care,
  - (iv) differing models and best practice in delivering services and treatment options to regional Australia and Indigenous Australians, and
  - (v) current barriers to the implementation of best practice in the above fields; and
- (b) how less conventional and complementary cancer treatments can be assessed and judged, with particular reference to:
  - (i) the extent to which less conventional and complementary treatments are researched, or are supported by research,

- (ii) the efficacy of common but less conventional approaches either as primary treatments or as adjunct/complementary therapies, and
- (iii) the legitimate role of government in the field of less conventional cancer treatment.

**Senator Brown** to move on the next day of sitting:

That the Senate—

(a) notes:

- (i) that a closed session of the Cambodian National Assembly, under the direction of Prime Minister Hun Sen, has removed the rightful parliamentary immunity of leading opposition figures, including Sam Rainsy, and
  - (ii) the subsequent arrest of Sam Rainsy Party Member of Parliament, Cheam Channy; and
- (b) calls on the Australian Government to immediately make representations to the Cambodian Government to:
- (i) have parliamentary immunity reinstated, and
  - (ii) ensure the safety of Mr Rainsy and his colleagues and the release of Mr Cheam Channy without condition.

**Senator HARRIS (Queensland)** (3.44 p.m.)—I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) notes that:

- (i) 10 February 2005 is the 41st anniversary of Australia's greatest defence peacetime tragedy when HMAS *Melbourne*, an aircraft carrier, collided with HMAS *Voyager* killing 82 officers and sailors, and
- (ii) Mr Ray Brown, National President of the Injured Service Persons Association (ISPA) and Captain Will Anderson RAAC (Retired), ISPA National Vice President, both severely injured in Australian Defence Force peacetime accidents, are calling on the

Government to make an effort in publicly recognising Australian Defence Force deaths during peacetime operations;

- (b) supports and commends those naval establishments who hold small ceremonies on this anniversary;
- (c) recognises the commitment of all Australian Defence Force personnel in carrying out their duties;
- (d) notes the supreme sacrifice of those personnel who have in the exercise of peacetime duty sacrificed their lives in the service of their country; and
- (e) requests that the Minister for Veterans' Affairs (Ms Kelly) lift the public awareness of all future anniversaries by encouraging the Government to formally hold ceremonies throughout Australia to honour all members of the Australian Defence Forces who have freely given their lives in the service of their country in peacetime duties.

I also foreshadow that I will seek leave to have incorporated in *Hansard* a list of those defence personnel who have tragically lost their lives in peacetime service.

## COMMITTEES

### Selection of Bills Committee

#### Report

**Senator McGAURAN (Victoria)** (3.46 p.m.)—At the request of the Chair of the Selection of Bills Committee, Senator Ferris, I present the first report for 2005 of the Standing Committee for the Selection of Bills.

Ordered that the report be adopted.

**Senator McGAURAN**—I seek leave to have the report incorporated in *Hansard*.

Leave granted.

*The report read as follows—*

## SELECTION OF BILLS COMMITTEE

## REPORT NO. 1 OF 2005

1. The committee met in private session from 4.20 pm.
2. The committee resolved to recommend—That—
  - (a) the *provisions* of the AusLink (National Land Transport) Bill 2004 and AusLink (National Land Transport—Consequential and Transitional Provisions) Bill 2004 be *referred immediately* to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 12 May 2005 (see appendix 1 for statement of reasons for referral);
  - (b) the Criminal Code Amendment (Trafficking in Persons Offences) Bill 2004 [2005] be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report by 7 March 2005 (see appendix 2 for statement of reasons for referral); and
  - (c) the *provisions* of the Tax Laws Amendment (2004 Measures No. 7) Bill 2004 be *referred immediately* to the Economics Legislation Committee for inquiry and report by 7 March 2005 (see appendix 3 for statement of reasons for referral).
- (3) The committee resolved to recommend—That the following bills *not* be referred to committees:
  - Australian Sports Commission Amendment Bill 2004
  - Child Support Legislation Amendment Bill 2004
  - Senate Voters' Choice (Preference Allocation) Bill 2004
  - Superannuation Supervisory Levy Imposition Amendment Bill 2004
  - Authorised Deposit-taking Institutions Supervisory Levy Imposition Amendment Bill 2004
  - Life Insurance Supervisory Levy Imposition Amendment Bill 2004

- General Insurance Supervisory Levy Imposition Amendment Bill 2004
- Retirement Savings Account Providers Supervisory Levy Imposition Amendment Bill 2004
- Authorised Non-operating Holding Companies Supervisory Levy Imposition Amendment Bill 2004
- Financial Institutions Supervisory Levies Collection Amendment Bill 2004.

*The committee recommends accordingly.*

4. The committee *deferred* consideration of the following bills to the next meeting:

*Bills deferred from meeting of 8 February 2005*

- Navigation Amendment Bill 2004
- Trade Practices Amendment (Personal Injuries and Death) Bill 2004.

(Jeannie Ferris)

**Chair**

9 February 2005

## Appendix 1

**Proposal to refer a bill to a committee****Name of bill(s):**

AusLink (National Land Transport) Bill 2004 and AusLink (National Land Transport—Consequential and Transitional Provisions) Bill 2004

**Reasons for referral/principal issues for consideration**

1. Questions about the changes to the Commonwealth Government's funding responsibility for construction and maintenance of infrastructure on what was formerly defined as the National Highway Network.
2. The need for a National Infrastructure advisory Council, involving stakeholder and expert representation and input into planning.
3. Examine the extension of the criteria for Roads to Recovery projects to include public transport, cycling, walking infrastructure and regional airport runways.

**Possible submissions or evidence from:**

Australian Automobile Association, Australian Trucking Association, Australia Local Govern-



ment Association, state and territory governments.

**Committee to which bill is referred:**

Rural and Regional Affairs and Transport Legislation Committee

**Possible hearing date:**

**Possible reporting date(s):** 12 May 2005

Appendix 2

**Proposal to refer a bill to a committee**

**Name of bill(s):**

Criminal Code Amendment (Trafficking in Persons Offences) Bill 2004 [2005]

**Reasons for referral/principal issues for consideration**

1. To examine the possible inclusion of additional offences, including child-specific offences.
2. To examine the use of absolute liability in the bill
3. To consider the phrasing of the bill in relation to use of the terms "for commercial use" with regard to sexual exploitation offences.
4. to consider the desirability of including some PJACC recommendations into the bill.

**Possible submissions or evidence from:**

Various interested parties including World Vision

**Committee to which bill is referred:**

Legal and Constitutional Legislation Committee

**Possible hearing date:**

**Possible reporting date(s):** 7 March 2005

Appendix 3

**Proposal to refer a bill to a committee**

**Name of bill(s):**

Tax Laws Amendment (2004 Measures No. 7) Bill 2004

**Reasons for referral/principal issues for consideration**

The terms of reference for the Senate inquiry will be:

- Whether Schedule 1 measures pose a threat to the tax base by opening significant tax avoidance opportunities,
- Whether Schedule 1 measures create an incentive for a taxpayer split income between different taxation entities (eg a company or partnerships)
- Whether the grouping rules for the simplified tax system are sufficient to prevent tax avoidance given that they are designed to operate from a much higher threshold
- Whether the measures in Schedule 1 will be appropriately targeted to entrepreneurial activity

Schedule 5

The costs and effectiveness of taxation concession for frontier petroleum exploration in Schedule 5

**Possible submissions or evidence from:**

Treasury, Australian Taxation Office, Australian Renewable Fuels, Greenpeace, Renewable Energy Generators, Australian Business Council for Sustainable Energy, Centre for Sustainable Energy Systems

**Committee to which bill is referred:**

Economics Legislation Committee

**Possible hearing date:**

**Possible reporting date(s):** 7 March 2005

**NOTICES**

**Postponement**

Items of business were postponed as follows:

General business notice of motion no. 27 standing in the name of Senator Lees for 10 February 2005, relating to Asian elephants, postponed till 11 May 2005.

General business notice of motion no. 62 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, relating to sustainable energy use in parliamentary and government buildings, postponed till 10 February 2005.

**FAMILY SERVICES: CHILD CARE**

**Senator ALLISON** (Victoria—Leader of the Australian Democrats) (3.46 p.m.)—I move:

That the Senate—

(a) notes:

- (i) the critical shortage of child-care places, particularly in inner metropolitan areas,
- (ii) that there are, for instance, up to 1 600 children under 5 years of age on waiting lists for child-care places in the City of Port Phillip where there have been no new places made available in 2005 and where two centres will soon close to make way for residential development, and
- (iii) that women and their partners are being denied opportunities to re-join the workforce because of such long waiting lists; and

(b) calls on the Federal Government, as a matter of urgency, to:

- (i) identify, in conjunction with state and local governments, those areas in greatest need of child-care places,
- (ii) acknowledge that market forces are not delivering child-care places in those areas of need where real estate values make setting up new child-care centres unviable and that government intervention is required, and
- (iii) properly fund child-care so it is high quality, accessible and affordable.

Question agreed to.

**ENVIRONMENT: KYOTO PROTOCOL**

**Senator BROWN** (Tasmania) (3.47 p.m.)—I move:

That the Senate—

- (a) notes that on 16 January 2005 the Kyoto Protocol to the United Nations Framework Convention on Climate Change will come into force having been ratified by over 80 countries; and
- (b) congratulates:

- (i) Japan and the city of Kyoto for hosting the original conference in 1997 where the treaty was proposed, and
- (ii) the international community for agreeing to bring into force this important first step in limiting greenhouse gas production.

Question agreed to.

**Senator Brown**—I note the government's opposition to the motion.

**COMMITTEES****Environment, Communications, Information Technology and the Arts References Committee****Meeting**

**Senator BARTLETT** (Queensland) (3.48 p.m.)—At the request of the Chair of the Senate Environment, Communications, Information Technology and the Arts References Committee, Senator Cherry, I move:

That the Environment, Communications, Information Technology and the Arts References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 10 February 2005, from 9.30 am to 1.30 pm, to take evidence for the committee's inquiry into the provisions of the Australian Communications and Media Authority Bill 2004 and nine related bills.

Question agreed to.

**Finance and Public Administration References Committee****Meeting**

**Senator GEORGE CAMPBELL** (New South Wales) (3.48 p.m.)—At the request of the Chair of the Senate Finance and Public Administration References Committee, Senator Forshaw, I move:

That the Finance and Public Administration References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 10 February 2005, from 3.30 pm to 8.30 pm, to take evidence for the committee's inquiry into the Regional Partnerships program.

Question agreed to.

**MS CORNELIA RAU**

**Senator NETTLE** (New South Wales) (3.48 p.m.)—by leave—I move the motion as amended:

That the Senate—

(a) notes that:

- (i) the circumstances and treatment of Cornelia Rau are appalling and highlight systematic problems in the administration of immigration detention,
- (ii) the Rau family have called for a full judicial inquiry,
- (iii) Ms Rau's case is just one example of how mental health and physical health is being inappropriately diagnosed and treated in detention centres,
- (iv) several studies have concluded that long-term detention itself exacerbates and creates mental illness in detainees, and
- (v) independent monitoring of operations in detention centres has been totally inadequate; and

(b) calls on the Government to:

- (i) apologise to Cornelia Rau and her family immediately,
- (ii) expedite consideration of appropriate compensation for Ms Rau for her treatment in immigration detention, and
- (iii) instigate a full, open and transparent judicial inquiry to investigate:
  - (A) how a permanent resident came to be placed in immigration detention, and
  - (B) the alleged mistreatment of Cornelia Rau and other detainees in immigration detention.

Question agreed to.

**Senator Brown**—Again, I note the government's opposition to the motion.

**MR ZHAO ZIYANG**

**Senator BROWN** (Tasmania) (3.49 p.m.)—I move:

That the Senate notes—

- (a) the recent death of former Chinese Premier Zhao Ziyang; and
- (b) the positive reformist role of Mr Zhao Ziyang and, in particular, his efforts for peace during the 1989 Tiananmen Square uprising.

Question put.

The Senate divided. [3.54 p.m.]

(The Deputy President—Senator J.J. Hogg)

Ayes.....	7
Noes.....	<u>41</u>
Majority.....	34

**AYES**

Allison, L.F.	Bartlett, A.J.J.
Brown, B.J.	Harris, L.
Lees, M.H.	Nettle, K. *
Ridgeway, A.D.	

**NOES**

Barnett, G.	Bishop, T.M.
Brandis, G.H.	Buckland, G.
Campbell, G.	Carr, K.J.
Chapman, H.G.P.	Colbeck, R.
Collins, J.M.A.	Cook, P.F.S.
Crossin, P.M.	Denman, K.J.
Ellison, C.M.	Faulkner, J.P.
Ferguson, A.B.	Fifield, M.P.
Forshaw, M.G.	Harradine, B.
Hogg, J.J.	Humphries, G.
Johnston, D.	Lightfoot, P.R.
Ludwig, J.W.	Lundy, K.A.
Marshall, G.	Mason, B.J.
McGauran, J.J.J. *	McLucas, J.E.
Moore, C.	Murphy, S.M.
O'Brien, K.W.K.	Payne, M.A.
Ray, R.F.	Santoro, S.
Scullion, N.G.	Sherry, N.J.
Stephens, U.	Tchen, T.
Tierney, J.W.	Watson, J.O.W.
Webber, R.	

\* denotes teller

Question negated.

## COMMITTEES

### Community Affairs References Committee

#### Reference

**Senator NETTLE** (New South Wales) (3.58 p.m.)—I move:

That the following matters be referred to the Community Affairs References Committee for inquiry and report by 16 June 2005:

- (a) the extent to which the private health insurance rebate has influenced private health insurance membership rates;
- (b) the impact of the private health insurance rebate on public hospital workloads;
- (c) the impact of the private health insurance rebate on medical, nursing and allied health professionals, in particular, whether there has been a shift of personnel from public to private sectors, and, if so, the extent and impact on provision of public hospital services;
- (d) the implications for the Commonwealth budget of continuing the private health insurance rebate given that insurance premiums are increasing at a higher rate than the Consumer Price Index;
- (e) the Medicare Levy Surcharge; and
- (f) any related matters.

Question put.

The Senate divided. [4.00 p.m.]

(The Deputy President—Senator J.J. Hogg)

Ayes.....	2
Noes.....	44
Majority.....	42

#### AYES

Brown, B.J.

Nettle, K. \*

#### NOES

Barnett, G.  
Bishop, T.M.  
Buckland, G.  
Carr, K.J.  
Colbeck, R.  
Cook, P.F.S.

Bartlett, A.J.J.  
Brandis, G.H.  
Campbell, G.  
Chapman, H.G.P.  
Collins, J.M.A.  
Crossin, P.M.

Denman, K.J.  
Faulkner, J.P.  
Fifield, M.P.  
Greig, B.  
Hogg, J.J.  
Johnston, D.  
Ludwig, J.W.  
Marshall, G.  
McGauran, J.J.J. \*  
Moore, C.  
O'Brien, K.W.K.  
Ray, R.F.  
Santoro, S.  
Sherry, N.J.  
Tchen, T.  
Watson, J.O.W.

Ellison, C.M.  
Ferguson, A.B.  
Forshaw, M.G.  
Harris, L.  
Humphries, G.  
Lightfoot, P.R.  
Lundy, K.A.  
Mason, B.J.  
McLucas, J.E.  
Murphy, S.M.  
Payne, M.A.  
Ridgeway, A.D.  
Scullion, N.G.  
Stephens, U.  
Tierney, J.W.  
Webber, R.

\* denotes teller

Question negatived.

### INDIAN OCEAN TSUNAMI

**Senator LUDWIG** (Queensland) (4.04 p.m.)—I move:

That the Senate—

- (a) notes the excellent work of the Disaster Victim Identification Team that is undertaking this extremely difficult task with great professionalism in Thailand; and
- (b) expresses its thanks to the officers of the Australian Federal Police and state and territory police forces and also to the civilian members and forensic experts of the team for their dedication and commitment under the most trying of circumstances.

Question agreed to.

### FEDERATION OF ETHNIC COMMUNITIES COUNCIL'S TRANSFORMATIONS CONFERENCE

**Senator LUDWIG** (Queensland) (4.04 p.m.)—I move:

That the Senate—

- (a) notes that:
  - (i) during the week beginning 6 February 2005, the Federation of Ethnic Communities Council's Transformations Conference is being held at the Australian National University, and

- (ii) this international conference is a chance for Australia to show the rest of the world how we have created a harmonious society; and
- (b) wishes the conference delegates well in their proceedings.

Question agreed to.

#### SHROVE TUESDAY

**Senator LUDWIG** (Queensland) (4.04 p.m.)—I move:

That the Senate—

- (a) notes that 8 February 2005 marked the Christian feast of Shrove Tuesday; and
- (b) recognises the continuing contribution of Christianity to Australia's cultural life.

Question agreed to.

#### NEW ZEALAND: WAITANGI DAY

**Senator LUDWIG** (Queensland) (4.04 p.m.)—I move:

That the Senate—

- (a) notes that 6 February is New Zealand Waitangi Day; and
- (b) recognises the contribution of Australians of New Zealand descent to our nation.

Question agreed to.

#### SRI LANKA: INDEPENDENCE COMMEMORATION DAY

**Senator LUDWIG** (Queensland) (4.04 p.m.)—I move:

That the Senate—

- (a) notes that 4 February is Sri Lanka's Independence Commemoration Day;
- (b) recognises the contribution of the Sri Lankan community in Australia; and
- (c) expresses its solidarity and sympathy with the Sri Lankan people in the aftermath of the Asian Tsunami.

Question agreed to.

#### AUSCHWITZ: ANNIVERSARY

**Senator LUDWIG** (Queensland) (4.04 p.m.)—I move:

That the Senate—

- (a) notes that 5 February 2005 marked the 60th anniversary of the liberation of Auschwitz; and
- (b) solemnly recognises the sufferings of the victims and the families of victims of Auschwitz, including those in Australia.

Question agreed to.

#### VIETNAMESE NEW YEAR

**Senator LUDWIG** (Queensland) (4.04 p.m.)—I move:

That the Senate—

- (a) notes that 5 February 2005 marked the Vietnamese New Year of the Rooster;
- (b) recognises the contribution of the Vietnamese community in Australia; and
- (c) wishes all a happy and prosperous Vietnamese New Year.

Question agreed to.

#### COMMITTEES

##### Environment, Communications, Information Technology and the Arts References Committee

##### Extension of Time

**Senator BARTLETT** (Queensland) (4.05 p.m.)—At the request of the Chair of the Environment, Communications, Information Technology and the Arts References Committee, Senator Cherry, I move:

That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts References Committee on the Budgetary and environmental implications of the Government's Energy White Paper be extended to 18 April 2005.

Question agreed to.

#### MATTERS OF PUBLIC IMPORTANCE

##### Economy: Debt Management

**The DEPUTY PRESIDENT**—The President has received a letter from Senator Sherry proposing that a definite matter of public importance be submitted to the Senate for discussion, namely:

The need for the Federal Government to:

- (a) note the increase in the current account deficit and foreign debt to record levels;
- (b) develop new pro-active policies to reverse the escalation of external deficits and debt; and
- (c) acknowledge that rising foreign debt puts upward pressure on interest rates.

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

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

**The DEPUTY PRESIDENT**—I understand that informal arrangements have been made to allocate specific times to each of the speakers in today's debate. With the concurrence of the Senate, I shall ask the clerks to set the clock accordingly.

**Senator SHERRY (Tasmania) (4.07 p.m.)**—Today in the Senate, on behalf of the Labor opposition, I have proposed that the Senate discuss the serious issues of Australia's current account deficit and foreign debt, which have reached record levels, and the need to develop proactive policies to reverse this increase in external deficit and debt and the associated problem of foreign debt putting upward pressure on Australian interest rates. The current account deficit over the almost nine years of the current Liberal government has almost doubled to \$50 billion. The net foreign debt has doubled to some \$406 billion. These are very serious figures. The rise in foreign debt levels swamps the reduction in government debt, which has been in large part funded by selling public assets.

The Liberal government, as we saw in question time today, loves to answer anything but the questions that are presented to it. There were three questions about the current account deficit and the level of net foreign debt. The government loves to talk

about interest rates and government debt but refuses to answer the questions that were put to it today and on other occasions. We had an example in a response from Senator Hill, who wanted to go back through history—that is natural enough—and refer to the time that the current opposition leader, Kim Beazley, was finance minister in 1995-96, when there was a budget debt—not that Senator Hill was asked about budget debt—of almost \$10 billion. I reminded him, via interjection, that we can go back through history to the current Prime Minister's last year as Treasurer of this country, in 1983, when he left a \$22 billion budget deficit and he covered it up. He did not own up until after the election. If people want to talk about Mr Beazley's history, we will remind this country about the record of the cover-up of the current Prime Minister when he was last Treasurer in respect of budget deficits.

Going back to the current account deficit and net foreign debt: this government loves to talk about its successes but ignores and in fact has been complacent about some areas of our economic record that are very serious indeed. It has failed to introduce any policies to halt and reverse the spiralling external debt, the deficits and the associated national debt. I thought one of the most extraordinary claims today from Senator Hill was about the need for industrial relations reform in the context of a current account deficit. It was an absolute joke. I could not believe that the Leader of the Government in the Senate, Senator Hill, would actually claim that you can reduce imports by industrial relations reform in Australia. What is the linkage? There is none, unless your industrial relations reforms are all about reducing wages in Australia. That would reduce imports. That is the only obvious linkage, if in fact there is one. I found it quite extraordinary that Senator Hill could wander into that little mine-field.

*Senator McGauran interjecting—*

**Senator SHERRY**—This government has developed a bad habit of blaming everyone and everything but itself. It is a government that loves to take the credit but will not fess up and accept any of the blame when there is something wrong. So we have had this long litany of excuses in respect of national debt and the current account deficit. We have had drought, we have had SARS and we have had port bottlenecks—that is the latest one. Senator McGauran interjected about that earlier. Who gave control of the ports to Mr Corrigan in this country? We have a duopoly operating, thanks to this federal government.

**Senator George Campbell**—They fixed the waterfront.

**Senator SHERRY**—They said they fixed the waterfront; they certainly have. We have a duopoly operating, thanks to Senator McGauran and this Liberal-National Party government. What responsibility do you bear for that? You certainly fixed the waterfront. We have a stronger dollar—that is another excuse and, as I mentioned earlier, industrial relations is the latest excuse. They have carried out some industrial relations reforms, but apparently they did not work in respect of the current account deficit and national debt.

This government has enjoyed the benefits of the former Labor government's improvements in productivity—policies we implemented in the 1980s. I remember the current Prime Minister saying in 1996 that his government had inherited a fundamentally strong and sound economy. But this government has neglected policy in a range of areas—and I know my colleague Senator Lundy will go into this in greater detail—for example, investment in infrastructure. It has been so concerned about flogging off infrastructure and privatising, it has failed to invest in infrastructure. We have got emerging

skill shortages. And we had a very good question about trade negotiations from my colleague Senator Cook, the former trade minister.

The government has relied on a bilateral FTA, when its own research shows that that is going to cause the deficit to rise not fall. It has failed to remove the disincentives for people to rejoin the work force. It is strangling—in fact, choking—small business with more red tape and legislation. That is an issue I will talk about on another occasion in respect of so-called superannuation choice. The government will be hearing a lot more about the extra red tape in that area. That is just one example. Now the government is talking about making industrial relations more hardline and inflexible and reducing wages and conditions. That is what it wants to do.

The proposal that Labor has put before the Senate for discussion draws attention to the issue of an increasing foreign debt putting upward pressure on interest rates. I suspect that those opposite who contribute in this debate are going to try and refute that.

*Senator Fifield interjecting—*

**Senator SHERRY**—I notice a nod, in fact, from Senator Fifield. I want to go to an authority on this matter: none other than Senator Fifield's former employer, the current Treasurer, Mr Costello. It was Mr Costello himself, some nine years ago, when he was shadow Treasurer, who claimed that foreign debt—when foreign debt was at half its current level—posed a serious threat to mortgage interest rates. Earlier today I actually read the speech in which Mr Costello made these claims. He cited numerous experts in support of his argument that an increase in foreign debt would put upward pressure on mortgage interest rates. In his speech of some nine years ago, Mr Costello quoted Mr Tom Valentine, who was Dean of



Commerce at the University of Western Australia:

Of course the debt has an impact ...

That is a reference to the national debt. Mr Valentine went on:

This causes higher mortgage rates.

I'm amazed there is even debate about this issue.

There was a quote from Chris Caton:

It's quite clear that the current-account deficit at 6 per cent of GDP [gross domestic product] has an impact on long-term rates ...

It is now well over six per cent; in fact, I think we now have the highest current account deficit amongst advanced economies in the Western world. The now Treasurer, Mr Costello, quoted Professor McKibbin:

Any country that has a large debt tends to pay a premium over the risk-free range.

You pay an additional premium in terms of interest rates for borrowing moneys from overseas, and Australia does have to borrow substantially from overseas in order to finance its current account debt. Why does it have to do that? Because savings have collapsed in this country. I am not talking about government savings, about which the government sounds like a cracked record: repeat and repeat; I am talking about household savings. Household savings in this country have collapsed under this government and, as a consequence, we need to import foreign capital. Because of our increased exposure on the current account deficit, we obviously have to pay more via interest rates. We have to pay a premium to attract capital into this country because we are competing against many other countries in order to attract that capital. There has been a very poor household savings record under this government. That is another issue it does not want to talk about at all. The level of household savings is collapsing in this country.

We become more and more reliant on foreign savings to finance our external debt and this is putting upward pressure on interest rates. We do know at the moment that mortgage interest payments—the actual money that individuals are paying—are at historically high levels. Yet this Liberal government has continued on with its complacency. It has the gall to attempt to criticise the former Labor government over its responsibilities—and we are talking about almost nine years ago now. This government should be able to justify its own performance—and it cannot in respect of savings and the current account deficit—when it is now approaching nine years in government. I think that this complacent approach by the Treasurer and by the Liberal-National government in general clearly shows a creeping arrogance in its approach and an emerging complacency. It demonstrates that the Treasurer himself and the other members of this government are out of touch with pressures on Australian families.

Not only did I read the speech made some nine years ago by the now Treasurer in which he argued that the current account deficit put upward pressure on interest rates; I also tuned into the telly the other night when he was trying to make the spurious link between industrial relations reform and interest rates. At that press conference on Monday night he claimed that the current standard variable mortgage rate is 6.25 per cent. It is actually 7.05 per cent. I do not think he was deliberately misleading, but it did surprise me that the Treasurer actually did not know this. The Treasurer of this country did not know the variable mortgage rate was not 6.25 per cent and that it is actually 7.05 per cent. It was a pretty serious error. I have got to give the press a touch along—and I do not often do this: they did not highlight the Treasurer's error. They did highlight the ridiculous argument that indus-



trial relations reform is somehow linked to interest rates, when it is not. This mistake by the Treasurer when referring to the standard variable mortgage rate—

**Senator McGauran**—Wage rises are not linked to productivity.

**Senator SHERRY**—That is not right, Senator McGauran.

**Senator McGauran**—Ask George Campbell about it.

**Senator SHERRY**—Senator McGauran claims that wage rises are not linked to productivity. That is not right. Substantially they are; it depends on which part of the industrial relations system you are in. For many workers, wage increases in this country are linked to productivity. Senator McGauran is apparently suggesting that we should remove safety net wage increases. They are not totally linked to productivity. What Senator McGauran is suggesting is the Americanisation of the industrial relations system: no movement in minimum wage rates of pay in this country. That is what he is suggesting. We know what is on your agenda. That is inevitably what you would do to lower paid wage earners. You would reduce their wages in real terms over time by removing that safety net provision, and that would reduce imports. Clearly, if your real wages are reduced, you cannot purchase as much, because consumption has declined, and you obviously would not be purchasing imported goods. This government has been complacent. It has been arrogant. It has wasted opportunities. It has ignored fundamental policy reform in a number of areas other than those that suit its own ideological prejudice and propaganda.

**Senator FIFIELD (Victoria) (4.22 p.m.)**—What is so telling here is not what Senator Sherry has said but what he has not said. Why is it that every time Labor come in to talk about the economy they do not want

to talk about net government debt? They want to talk about foreign debt and the current account deficit. They want to deny the link between them. It is always the same story. And it is odd, because there is a direct relationship between the two. One almost gets the feeling, as Senator Sherry leaves the chamber, that Labor have something to hide, that they are uncomfortable talking about net government debt. The reason is: they are. It is instructive, I think, to look at the relationship between net foreign debt and net government debt to see why Labor are so shy.

When the coalition came to government, we inherited a net government debt of \$96 billion. It is a figure the Labor Party have never liked to hear and do not want to hear today. We have reduced net debt from \$96 billion, 19 per cent of GDP, to \$25 billion, three per cent of GDP. That is a reduction from \$5,200 to around \$1,200 per person. As a government we are living within our means. We can afford to do the things that we want to do for the Australian people without borrowing. Since we have been in office we have not borrowed one dollar in net terms.

We enjoy the lowest level of general government net debt in the developed world—lower than Germany, lower than the total OECD, lower than the EU, lower than Japan, lower than the US—and the government is committed to maintaining those low levels of net government debt. We have a much lower level of net government debt than most other developed countries. Our net debt to GDP ratio is amongst the lowest in the OECD. While net debt in most OECD countries is rising as a percentage of GDP, in Australia it is steadily falling.

Why is this important? Why am I talking about net government debt? Because it does have an effect on foreign debt and the current account deficit, for one very simple reason:

the more governments borrow domestically, the less money there is to borrow to invest in Australia, meaning that people have to borrow overseas. If Labor were in office, there would be a much higher level of net government debt, which would have an effect on foreign debt. It is clear. We know Labor cannot be trusted with budgets, because we have seen it before. Earlier in this chamber, I was fortunate again to be on my feet on this issue. I referred to my all-time favourite article quoting Kim Beazley, in the *Age* of 1 February 1996. He said:

“We’re in a position where we’ve got no plans to increase taxes ... Why would we? We’re operating in surplus, and our projections are for surpluses in the future.

The reality was a \$10 billion debt, so it is absolutely breathtaking that Mr Beazley and his team opposite seek to take this government to task on interest rates and foreign debt. This government know that the best way for any government to take pressure off interest rates is to reduce government debt, which is what we have done. Let us never forget that Kim Beazley left us not only a \$10 billion budget deficit but also an annual interest bill of \$8 billion when we came into office. That is why senators opposite never want to talk about the other side of the economic equation.

Since 1996 the share of net foreign debt owned by the general government sector has fallen from 17 per cent to under five per cent, and the debt servicing ratio has fallen to around nine per cent. In 1990 under the previous Labor government—the team of which Mr Beazley was an integral part—20 per cent of exports went towards paying the interest on net foreign debt. Australians indicated at the last election that they know who is better at managing the Australian economy.

Those opposite, as always, are talking the economy down, but we have an enviable economy. We have strong growth, high employment, low unemployment, low inflation and low net government debt. There are indeed some economic challenges in this environment, associated with capacity constraints. There is one very simple solution to capacity constraints, skill shortages and inflationary pressure; we could always follow the Labor approach and kill the economy, as they did in the 1980s. A simple Labor solution to a skill shortage is to pursue policies that drive unemployment higher. An easy way to solve a skill shortage is to kill the economy—no skill shortage then. A simple Labor solution to capacity constraints is to pursue policies that squash demand and dampen business investment.

The government could pursue recessionary policies. Only today, Don Russell, former chief of staff to Paul Keating, has an article in the *Age* with the headline ‘Why we had to have that recession’. He tells us:

Far from enjoying the prosperity of the past decade, we would have spent the 1990s dealing with high inflation and high interest rates. In 1989, time was ticking and interest rates were the only way to avoid the otherwise inevitable disaster.

Too bad for those people who lost their jobs; it was just inevitable! He is not backing away at all from those policies of the 1980s. The truth is Labor only ever have one policy to lower inflation, to lower interest rates and to solve skill shortages, and that is to kill the economy. It is what they know, it is what they do well and it is what they do best. But we are determined to continue to pursue policies that will ensure that we have a strong economy and that will also keep inflationary pressures in check.

There are some practical things that we can do to improve Australia’s export performance. Addressing infrastructure constraints in our ports is one, as the Treasurer

has noted. There is strong demand overseas for our commodity exports which is not being met by Australian companies because of bottlenecks in our ports, particularly in northern New South Wales and Queensland. So there are things that we can do there, and the Treasurer will be seeking the assistance of the relevant state authorities. Senator Sherry could certainly help by talking to his state Labor counterparts.

Senator Sherry has proposed that the federal government acknowledge that rising foreign debt puts upward pressure on interest rates. He also suggested that the government needs to adopt what he calls a proactive approach to policy. On matters of monetary policy and foreign debt, I am inclined to defer to the judgment of the Reserve Bank rather than Senator Sherry. The Reserve Bank say that the current account deficit is not and should not be an objective for monetary policy.

The Deputy Governor of the Reserve Bank, Glenn Stevens, on 14 December 2004 gave an address in Sydney in which he raised the issue of the impact of foreign debt and the current account deficit on interest rates. He said, 'The current account deficit is clearly not something to be addressed by monetary policy.' He even went so far as to say:

Actually, whether the current account position should be an objective of any policy is not obvious—that would need to be argued. But whatever one's view on that question, let me be clear that *the current account is not, and should not be, an objective for monetary policy.*

Mr Stevens did not stop there. He said:

We have had that debate in Australia. It was settled more than a decade ago, and I do not wish to re-open it.

If Senator Sherry were here, I am sure he would say, 'But I have never said that.' But in October 1990, Senator Sherry said:

The overriding objective of macroeconomic policy is to reduce the current account deficit to a level which stabilises Australia's net foreign debt. In pursuing this objective the government has employed a comprehensive range of policies aimed at slowing demand growth to sustainable levels.

I actually think that the overriding objective of macroeconomic policy is to create a strong economy that provides jobs for Australians. So it is an interesting idea of what the purpose of a strong macroeconomic policy is. Senator Sherry might like to take on the Reserve Bank in reopening this debate—good luck to him if he does.

Earlier in the Senate, I referred to Mr Beazley, the Leader of the Opposition, who said, 'We have always been a country that has been heavily dependent on foreign capital. Get clearly in your head: foreign capital does not chase badly managed economies.' Kim Beazley said that in 1995. Fine, if you reject what Kim Beazley says, that is okay. Senator Sherry said, 'Debt is not a bad thing as long as you can support the debt.' If you want to discount Senator Sherry then that is fine.

So where does that leave us? It actually leaves us with an economy that is strong and with low unemployment. There are economic challenges but all Labor are doing here is running an old-fashioned interest rate scare campaign. I would have thought that from the last election you would have realised that the Australian people do not respond to your scare campaign on interest rates. They respond to facts and they rejected you.

**Senator MURRAY** (Western Australia) (4.32 p.m.)—Senator Sherry's matter of public importance concerns Australia's high current account deficit and the prospect of high interest rates. It may not be true, because we have no way of knowing what private discussions Treasury have with the Treasurer and other ministers, including the Prime

Minster, but I do get the impression that the current account deficit has only just drifted onto their list of issues to be worried about.

It is always bad management to take action only once something is a full-blown problem, when the warning signals have long been known. One thing all economists and financiers understand is that in the long run a high current account deficit is not sustainable. There will be a nasty correction if it is not addressed. Of course, long run can mean the very long run; hence those who say, 'Live for the day.'

The international dimension will always impact on Australia's economic prospects and the decisions Australia takes. The largest cloud on the horizon is represented by the United States of America. A radical American fiscal policy under the Bush administration has turned a sound financial position inherited from President Clinton into one that has elevated world concerns at their high current account deficit and the capital flows consequent to that.

The government cannot deny the first part of Senator Sherry's MPI, which notes that the current account deficit and foreign debt are at record levels. Net foreign debt, mostly private debt, is now at \$406 billion, or 49.2 per cent of GDP. It averaged only 34 per cent of GDP during the Hawke-Keating government and seven per cent during the much maligned Fraser government. The current account deficit is now running at \$15 billion per quarter, or six per cent of GDP. The Reserve Bank on Tuesday noted that the current account deficit is likely to hit 6¾ per cent of GDP in the December quarter—a steep rise.

To put this in context, the current account deficit averaged only 1.4 per cent of GDP during the also much maligned Whitlam government and 4.6 per cent during the Hawke-Keating era. The very reputable John

Edwards at HSBC said in their weekly bulletin in September 2004:

It has attracted very little attention but over the last four years Australia has experienced its biggest investment boom in well over forty years.

... ..

Since the end of 2000 the volume of investment has increased 41%.

Australia often has upswings in residential construction, or in mining investment or in infrastructure or in general business investment. The reason for the big boom is that for most of the last four years there has been an upswing in all these categories.

... ..

The arithmetic of national accounts tells us that domestic investment minus domestic saving will be equal to the current account deficit. It is more often than not the case in Australia that an investment boom coincides with a sharply wider current account deficit.

Later on, he went on to say:

We continue to be puzzled ... by assertions that Australia's export performance is failing. It is true that Australian exports fell from 2000 through to the middle of last year because of drought, currency appreciation and the global slowdown. It is true that decline contributed to the widening of the current account deficit.

... ..

The real weakness over the last year was in oil and gas exports and in metals—precisely the categories which have more recently benefited from China's import demand.

Mr Edwards is a clever man, and apart from the virtue of recording his opinion, these remarks show there is much argument over where our current account deficit is going and what it really means to Australia.

On Tuesday the Prime Minister said he was 'not the least bit pessimistic about our capacity through export performance to reduce the imbalance and what is a very large current account deficit over a long period of time'. Given that Mr Howard was elected on

economic management, a sceptic might say, as that famous lady once said, 'Well, he would say that, wouldn't he?' Unfortunately, the Reserve Bank is not quite so optimistic. They note:

Growth in Australia's export volumes has remained weak over the past year or so, despite the growth in global demand and world commodity prices, with total exports virtually unchanged from four years ago.

Any economist will tell you that the numbers themselves do not necessarily reveal the true impact of the current account deficit on interest rates. If the capital inflows allow Australians to invest in new plant and equipment, social and economic infrastructure, and education, research and development, in the long term this will improve Australia's trade performance. This is the so-called J-curve. It is what the capital inflows are used for that helps to affect interest rates. Unfortunately, this government has reduced relative spending on education and long-term research and development. We are below the OECD in those fields. Surveys show that our nine governments have underinvested in productive infrastructure. Worse, they have allowed essential infrastructure, such as for power, water, rail and ports, to deteriorate.

Much of the capital inflow has funded consumer spending and the property investment boom. Interest rates have already risen precisely because of those reasons. Neither of these items improves our trade performance or productive capacity that much, but they have been encouraged by the government with their tax cuts for high-income earners, negative gearing and capital gains tax concessions and the \$66 billion of budget and election pump priming. Those are electorally popular, but we have to recognise that along with the upsides there are downsides. Consequently, the Reserve Bank have warned that we are likely to face higher interest rates to cool rampant consumer spend-

ing and reduce inflationary pressures. Note that it is not to cool investment spending but to cool consumer spending.

The Australian Democrats do not want to see higher interest rates or a slowdown in the economy. We recognise that Australia's trade figures are likely to continue to worsen, at least in the short run, including as a result of last month's tariff reductions for imported cars, clothing and other goods. The only way to improve our trade predicament is to boost exports and productivity and the Australian government has to make this happen. The alternative, of course, is to reduce imports. That will have the effect of lowering our economic performance. You actually want to lift the exports, not lower imports overmuch, although there is a case for imports being lowered.

The government's policies of winding back the export market development grants, reducing incentives for research and development and reducing tariffs without equivalent foreign tariff reductions have contributed to Australia's poor trade performance. The Australian Democrats have been right at the forefront of responsible macroeconomic reform, and we have experienced some criticism for supporting the coalition in some of those areas.

We do have policies that we think would help improve Australia's trade performance. Amongst them are these. We recommend freezing further tariff reductions unless they are matched by our key trading partners. We would restore full funding to the Export Market Development Grants Scheme. We would like to see a review of business taxes and capital gains tax not only to make them more efficient but to encourage longer term productive investment rather than short-term speculation that results in short-term profit taking. We would restore the tax deductions for business research and development to

150 per cent. We would advocate putting much more money into public education and training to address Australia's skills shortage. We would improve the low participation rate of women in the Australian work force by promoting more family-friendly policies such as paid maternity leave and low-cost child care. We would encourage the move from welfare to work by raising the tax-free threshold significantly and improving the disposable income of low-income earners. We strongly support much needed infrastructure expenditure. We stand shoulder-to-shoulder with the National Party in our belief that the rail infrastructure in this country badly needs further investment.

The Democrats believe that the Howard government should include improving Australia's export performance as one of its key priorities for its fourth term. There does need to be a consensus of all our nine governments on what it would take to produce significant structural reform to improve our trade performance. There has been some discussion about IR, but we should never forget that much of the infrastructure is in the hands of the states. It is in their hands that our export destiny lies. The Howard-Costello government may feel they are in a strong position now. History tells you that the strong can be weakened. Having your eyes wide open in the good times may save them becoming bad times.

**Senator CHAPMAN (South Australia)** (4.42 p.m.)—If what we have heard so far in this debate on the part of the Labor Party, who brought forward this matter of public importance today, and indeed what we heard earlier today in question time, reflects their electorally-driven, new-found interest in the economy, then they certainly have a long way to go. Over the summer break, we all read about Labor's introspective navel gazing in the face of their leadership woes and the policy vacuum that contributed to their

well-deserved, massive electoral defeat at last October's election.

Following nine years of policy laziness, some opposite have apparently realised the truth of the old axiom, 'It's the economy, stupid'. However, it is going to take more than that realisation and recognition on the part of a few opposite for Labor to establish any credibility whatsoever with regard to economic matters. Trying to create an issue on false premises and harping on about it, as they did earlier today in question time and now in this debate, will certainly not establish any economic credibility whatsoever as far as the Labor Party is concerned. Their economic analysis of this issue is fatally flawed and, as has been the case for the last nine years, they offer no alternative, more beneficial policy to the issues they have been harping about.

The important thing to understand about the issue of the current account deficit is that it is essentially a function of the stage of our economic cycle. The fact is that, almost entirely as a result of the sound economic management that has been in place on the part of the Howard government over the last nine years, we have enjoyed strong domestic growth in our economy at a time when growth in the rest of the world has been much slower. Added to this factor is the situation of the declining value of the American dollar, which has had the reverse effect: the appreciation of the Australian dollar, which is up by 20 per cent over the two years to December last year. Of course, the devastating effects of drought over the past couple of years have had a substantially detrimental impact on the export earnings of Australia, and that continues to have residual effects. In addition to that, we had the issue of SARS and other factors which have affected Australia's export earnings.

So this is, as I say, a consequence of the stage of our economic cycle combined with other extraneous events such as drought and the state of the American dollar and its impact on the Australian dollar. This was quite clearly spelt out by the International Monetary Fund when it said:

That external current account deficit has widened, mainly reflecting the sharp appreciation of the Australian dollar and the relatively strong cyclical position of the economy.

So, again, factors beyond the control of the current government have affected the level of the current account deficit. But do not just rely on what I am saying about this; let us have a look at what some of the experts in the economic field have said about this issue. This is in marked contrast to the performance of those opposite, who showed during their period in government that they knew absolutely nothing about the economy and sound economic management.

The OECD in its recent report—a report, I might say, that was warmly endorsed by the Labor opposition—said on the causal factors with regard to the current account deficit:

The desynchronisation of the Australian and global economic cycles, effective exchange rate appreciation and the drought-effect on rural exports led to a substantial widening of the current external deficit during the past three years.

That was the OECD reinforcing the points I made a moment or two ago as to the external factors that have contributed to this situation. On whether this is a matter for concern, the OECD says that current account deficits are not a cause for great alarm in countries with floating exchange rates and adds:

Moreover, when assessing the Australian situation, it has to be kept in mind that, with general government finances in surplus for seven years in a row—

again, something in marked contrast to all those years of Labor government deficits—

Australia's current account reflects private saving and investment decisions. And with structural reform having stripped out many distortions from the economy—

structural reform initiated by the Howard government—the labour market reform, which has not gone far enough because of the opposition of the Labor Party and the minor parties in this chamber to much needed further workplace relations reform—

private sector saving and investment decisions are likely to be efficient, with capital flows reflecting informed decisions about relative investment opportunities.

On the risk of excessive foreign exchange exposure, the OECD says:

When taking on-balance sheet and off-balance sheet exposures together, Australian banks' foreign currency exposure remains at low levels. Accordingly, the Australian economy as a whole, as well as individual sectors, do not seem to have important foreign exchange exposure.

On our ability to handle the current account position, the OECD says:

.... the banking system, which accounts for about 80 per cent of Australia's net foreign debt, is in good shape. This is reflected in Australia's Aaa and AAA foreign currency ratings, respectively, by the Moody's and Standard & Poor's rating agencies. The financial positions of firms and households are also sound. The general government's share in net external debt is only about 5 per cent. Australian Government total net debt is very low, around 3 per cent of GDP in 2003-04, which is one of the lowest levels of general government net debt in the OECD. This places Australia in a comparatively better position than most other countries to respond to future economic shocks.

And why do we have that low level of government debt? Again, because of the sound financial management of the Howard government, running budget surpluses of several billion dollars for the time that we have been in government and paying off that massive inherited government debt from the Labor



Party's time in government—\$90 billion to \$100 billion of debt now down to \$20-odd billion of debt. It has been an astounding performance by this government in reducing government debt.

**Senator Lundy**—That's really all you've got to say, isn't it?

**Senator CHAPMAN**—As I said, the current account deficit is private sector debt, which is debt that is going into investment—which you would simply not understand, Senator Lundy, and nor would your colleagues in the Labor Party. The management of this government in relation to the economy is sound. Labor's alternative approach, as we saw in government, would worsen the situation. This government's position is entirely credible.

**Senator LUNDY** (Australian Capital Territory) (4.49 p.m.)—Well, well, well, it is amazing to see the crutch of the myth of the so-called Beazley black hole get a good dusting-off in this chamber today. We have heard speaker after speaker hark back 10 years trying to build an argument on something that obviously has very little relevance to the state of the economy today and the issues that Labor is raising right now about the massive current account deficit and the negligence perpetuated by the Howard government.

I want to talk about an area of economic policy that relates to our capacity as a nation to continue growing and relates to our capacity as a nation to innovate and to make the most of the opportunities for economic growth that present themselves to us. That is infrastructure, innovation and industry policy. This neglect has led to a whole raft of chronic symptoms that include a trade deficit that is almost beyond belief.

It is worth going back to cover a bit of history. The 1996 and 1997 budgets saw the coalition government walk away from ear-

nest efforts of the Labor government to encourage industry to innovate and adapt to the new challenges of a global economy, and since then there has been a series of policies that in an ad hoc way have tried to backfill the neglect perpetuated in the late 1990s that saw the coalition squander a crucial period of productivity growth, particularly in well-developed economies that were capitalising on the technological boom and using that technological boom to upgrade their existing industries. In many respects we are left with what could have been. There is no doubt that the Australian economy has experienced growth, but the question goes to what could have been had we not squandered that period of growth and had the coalition not ignored the opportunity that investment in industry, innovation and infrastructure would have meant at that time and since.

Minister after minister in the industry portfolio in the coalition government can be characterised only as visionless, reactionary and weak. There is not any indicator that highlights the neglect of these policy areas more starkly than our consistently poor trade performance. As I said, while the rest of the world invested in the sorts of industries that would see their economies continue to grow strongly well into the 21st century, we have seen—and I can remember debating this in this place in 1997, 1998 and 1999—the disastrous results of this government's lack of commitment to research and development investment. We have also seen its lack of commitment to developing information and communication technology industries and elaborately transformed manufactures—all of which underpin the upgrading of our existing industries which we continue to rely on. So, at a time when the government should have been making hay while the economic sun shone, Mr Howard, Mr Costello and Mr Anderson seemed to laze around on the veranda, perhaps perfecting their dog



whistle, watching the capacity of Australia diminish through uninterested eyes.

The chronic symptom of this lazy neglect is, of course, the largest ever trade deficit—the seventh trade deficit in a row. Australia's share of world exports is now less than one per cent, which is the lowest level for at least 25 years. In measuring up against the countries with which Australia competes, this country is being beaten soundly. This is not good news for Australia's economy. So it is quite outrageous for the Howard government to continue to boast about being good economic managers, to mount the pitiful arguments we have heard in the chamber today, and to argue—as Senators Minchin and Hill did in question time—that this is somehow related to Labor's efforts.

The contribution of manufacturing, for which I have portfolio responsibility, underpins Australia's export success—not least because it is critical to strengthening our economic base through enhancing the value of our intellectual capital and natural resources. More than any other industry, the broad manufacturing capability can contribute to rapid economic growth. I refer again to my experience in the ICT portfolio, at a time when we knew it was possible to calculate the benefit of growth in that industry to our country's economic growth. Predictably, the Howard government has been more focused on ensuring that those jobs and opportunities for contracts in Australia went overseas instead of developing our industry here.

In a paper published last year, Peter Brain, the Executive Director of the National Institute of Economic and Industry Research, stated very clearly the core reason why manufacturing is a strategic industry and more important than others; that is because it is the industry which transforms raw knowledge into wealth creation. The paper states:

If an economy allows its manufacturing sector to degrade relative to the rest of the world, it is allowing its technology creation potential to decline, which in turn will eventually lead to a fall in the overall per capita GDP growth rate. Manufacturing is strategic in producing elaborately transformed products which are skill, knowledge and innovation intensive. Relative to other industries, manufacturing purchases a relatively high proportion of goods and services from other industries.

So it has that flow-on effect as well. It is worth putting on record the Howard government's dismal performance. Under this government we have seen 50,000 jobs lost in manufacturing between the years 2000 and 2004. Another pressure on manufacturing is the fact that the cost of inputs to manufactures has surged by 8.1 per cent—higher than last year and the highest rise in 14 years. We know that the share of total exports of manufactured goods has steadily declined under the present government and, according to the Department of Foreign Affairs and Trade's own figures, the trade deficit in manufactured goods for 2003-04 currently stands at \$76 billion. This deficit is at its highest in 2003-04 at nearly \$77 billion—nearly double the \$41 billion deficit that was recorded in 1996-97 just after Labor left office.

Meanwhile, manufactured imports climbed a staggering \$42 billion between 1996-97 and 2003-04. In 2002-03, this meant that, for every \$1 worth of manufactured goods produced in this country for local consumption, we imported \$2.55 worth of manufactured goods. This alarming stall in export growth in the manufacturing sector does not seem to have even ruffled the feathers of government ministers. They choose to ignore trade and innovation policy to pursue a perennial ideological campaign of attacking unions. Outrageously, we have witnessed today, on several occasions, Howard government ministers huffing and puffing like mad to create a smokescreen of so-called

industrial relations reform to try to obscure the export decline caused by their neglect. It is not an industrial relations issue that limits Australia's trade performance; it is mismanagement and neglect of trade, industry and innovation policy, which is a critical part of economic management of this country. That is where the neglect lies. We heard nothing today refuting that, except this sideways smokescreen effort holding up an ideological campaign. When are they going to try to establish a credential on the issue of trade? It is just not possible to sit in this place and think that this government has any credibility in this area at all.

It is also worth putting on the record that in the 1990s, under the Hawke-Keating Labor government's integrated trade and competitiveness strategies, we did lift this country's productivity, open new markets and generate increased export growth. It was the policy agenda that emerged from around 1990 that put exporting at the centre of the new industry policy in Australia. The success of emerging manufacturing exporters in Australian states—and Victoria is a standout—can be attributed to federal Labor strategies implemented at the time and, since then, a renewed focus by the Bracks Labor government and other state Labor governments to support and lift their export potential. This is in spite of the lack of attention and care by the Howard government at the federal level.

Under Labor our exports grew, on average, 8.1 per cent annually. Under the coalition it is a dismal result, and we have seen the trade deficit widen to 3.6 per cent under the coalition government. It was interesting in question time today to see Senator Hill confronted by these facts. The government do not know where to turn. It has been a bad week for the Howard government. Closely following the record trade deficit figures, the Reserve Bank of Australia released their statement on monetary policy, which de-

scribed the growth in manufactured export volume since 2000 as lacklustre, with growth in exports nearly 25 per cent lower than our global competitors and our performance 'weak, especially compared with the experience of the 1990s'.

**Senator McGAURAN (Victoria) (4.59 p.m.)**—I join my colleagues on this side of the house to debate the matter of public importance we have before us, brought to us by the Labor senator Senator Nick Sherry. I and my colleagues on this side—indeed, all members of the government—welcome the Labor Party putting forward a debate on the economic situation for once. We have been waiting since the last election and even prior to the last election, if not for our whole term in government, for a serious debate on the economics of this country. We thought we might see it today with Senator Sherry, probably the only credible member that Labor have. They have wheeled him out to debate the situation in regard to the current account deficit and foreign debt.

Frankly, Senator Sherry, their only credible finance representative, has failed them tragically. In their first foray into an economic debate since the election, having understood that this is where their next three years should be focused, Senator Sherry, the only credible financial spokesman they have, has failed them. He has not progressed their economic credibility one iota today. But they have three years. They will wheel Senator Sherry out again sometime for an economic debate, and he will have another opportunity to perhaps inch the Labor Party toward some public credibility with respect to economic matters. Today has been a big disappointment.

Senator Sherry has simply chosen to present a doom and gloom situation in regard to the economy, when not just everyone in this chamber and every economic commentator

but everyone in the public knows that that is not the situation of the Australian economy. The Australian economy is sound. It is strong and it is growing. The fundamentals are right, and they are in place. We need only go through the main statistics that affect every household, every business, small and large, and every export business in this country. Interest rates, for example, are the lowest they have been for decades. Home mortgages are around seven per cent. The inflation rate is within the bounds of the Reserve Bank requirements. It is 2.6 per cent. In fact, it is really only two per cent if you take away the spike that the higher oil prices have created in the last six to 12 months. So the inflation rate is tight and within the bounds of the two to three per cent set by the Reserve Bank.

The unemployment rate is the lowest it has been for decades. It is at a historic low of 5.1 per cent. Equally, consumer confidence is as high as it has been for decades. As reported in just the last day or two, business confidence is as high as it has been at any time over the past few years. It is showing no signs of declining. Don't you think, Senator Lundy and Senator Sherry, that the business survey would be one of the first indicators that there was some sort of doom and gloom or approaching downturn in the Australian economy? None of those key statistics point to any downturn, let alone the doom and gloom and ruin of the picture you try to paint. We are not even looking at a downturn. We are quite confident, and we are backed up by the OECD.

I am afraid I am going to run out of time. I have only four more minutes to build a case against you, Senator Lundy, to show you just how solid this economy is and just how wrong you are in your presentation, whether deliberately or not. It does not matter: we are on air, and people are listening to the Labor Party's view of the economy and, with their own basic understanding of economics, they

will simply never agree with you until you come in here and present the facts properly.

The OECD report has given support to the Australian economy. The OECD predicted a continuation of Australia's strong growth, low inflation and low unemployment—key economic indicators—although it is true to say that they have signalled that we need to maintain our reform agenda. So we wait. When we introduce further reforms into this parliament—albeit that we do not need your numbers after 1 July—

*Senator Lundy interjecting—*

**Senator McGAURAN**—we will wait to see whether you support us or not and whether you support us in industrial relations reform and many other areas when we introduce those reforms. We will be introducing and voting on them well before 1 July, Senator Lundy, so we will see your true colours in regard to reform and maintaining that growth in the strength of the economy.

Much has been made of the current account deficit. We are confident that we can meet the concerns about the current account deficit. Senator Sherry asked the federal government to note the increase in the current account deficit. We do note the increase in the current account deficit, but there are reasons—pretty clear and good reasons—that we have the current account deficit situation that we have at the moment. As I said, we have a very strong economy. That success is what has led to the current account deficit. We are probably a victim of our own success. The Australian domestic economy is growing. It has great demand and is sucking in the imports. It is not in sync with the rest of the world, which is not growing at the same rate as Australia, and so our exports are not getting out there.

I say to Senator Lundy and those opposite: overlaying that has been, for the last two years at least, a lingering, patchy drought

that Australia is yet to come out of. Of course, that has had an effect on a major exporter, the rural sector, in all areas—in the beef industry, in the dairy industry, in wool, in sheep and in wheat. That drought has touched every sector and it is still lingering in parts of Australia. Of course that has affected our exports and the current account. Added to that, we have had a high Australian dollar—higher than the rural industries would want. The rural industry spokespeople want the lowest possible Australian dollar, as all exporters do. The exporters see a dollar in the high 70s and breaking into the 80s as higher than they would like in order to maintain their competitiveness. *(Time expired)*

**The ACTING DEPUTY PRESIDENT (Senator Kirk)**—Order! The discussion on the matter of public importance is concluded.

#### COMMITTEES

##### Scrutiny of Bills Committee

##### Report

**Senator WEBBER** (Western Australia) (5.07 p.m.)—On behalf of the Chair of the Senate Standing Committee for the Scrutiny of Bills, Senator Ray, I present the first report of 2005 of the committee. I also lay on the table Scrutiny of Bills *Alert Digest* No. 1 of 2005, dated 9 February 2005.

Ordered that the report be printed.

#### BUDGET

##### Consideration by Legislation Committees

##### Additional Information

**Senator McGAURAN** (Victoria) (5.08 p.m.)—On behalf of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I present correspondence relating to estimates hearings in 2003.

#### DOCUMENTS

##### *Work of Committees*

**The ACTING DEPUTY PRESIDENT (Senator Kirk)**—On behalf of the President, I present *Work of Committees* for the period 1 July to 31 December 2004.

Ordered that the document be printed.

#### COMMITTEES

##### Membership

**The ACTING DEPUTY PRESIDENT (Senator Kirk)**—The President has received letters from a party leader seeking variation to the membership of certain committees.

**Senator COONAN** (New South Wales—Minister for Communications, Information Technology and the Arts) (5.09 p.m.)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

##### Finance and Public Administration References Committee—

Appointed—Substitute member: Senator Brandis to replace Senator Heffernan for the committee's inquiry into the Regional Partnerships program on 10 February 2005, in place of Senator Johnston.

##### Rural and Regional Affairs and Transport Legislation Committee—

Appointed—Substitute member: Senator Tchen to replace Senator Ferris for the consideration of the 2004-05 additional estimates on 18 February 2005.

Question agreed to.

#### PRIVATE HEALTH INSURANCE INCENTIVES AMENDMENT BILL 2004

##### First Reading

Bill received from the House of Representatives.

**Senator COONAN** (New South Wales—Minister for Communications, Information

Technology and the Arts) (5.10 p.m.)—I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

### Second Reading

**Senator COONAN** (New South Wales—Minister for Communications, Information Technology and the Arts) (5.10 p.m.)—I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

*The speech read as follows—*

#### PRIVATE HEALTH INSURANCE INCENTIVES AMENDMENT BILL 2004

This Bill amends the Private Health Insurance Incentives Act 1998 and the Income Tax Assessment Act 1997 to increase the Private Health Insurance rebate from 30% to 35% for people aged 65 to 69 years and to 40% for people aged 70 years and over.

Australia enjoys one of the best systems of health and hospital care in the world. The public and private sectors co-exist and complement each other, with the private hospital sector providing about half of all acute hospital procedures.

Over the last decade, the Government has initiated a number of reforms to introduce greater balance between the private and public health sectors. For example, the Government introduced the Medicare Levy Surcharge, Private Health Insurance Rebate, and Lifetime Health Cover.

Older Australians have the greatest need to ensure their access to health care. The reality of ageing is that we are more likely to see the inside of a hospital in our older years than our younger ones.

This is why so many older Australians choose to have private health insurance.

This is a generation whose by-word is self-reliance, and whose commitment to private health insurance cover has kept the whole system going.

The Government believes self-reliance should be rewarded, and that private health insurance should be even more accessible and affordable for older Australians. This is even more important for a generation of whom so many are pensioners, or self funded retirees on low to moderate incomes.

From 1 April 2005, for a typical couple or family policy, the higher rebates will reduce premiums for eligible policies by about \$100 to \$200 a year over and above the existing 30% rebate.

Like the existing 30% Rebate, the higher rebates will be able to be claimed as premium reductions through private health insurance funds, a direct payment from Medicare offices, or a tax offset in annual income tax returns. The premium discount option is already taken by 95% of premium payers, and it and the cash payment option are, of course, available for retirees who no longer have to pay income tax.

Again, as for the existing rebate, the higher rebates will be available for hospital cover, ancillary cover and combined cover.

The higher rebates will apply to individuals who meet the age thresholds and to couples and families where one or more of the persons meets these age thresholds.

The estimated cost of the higher rebates will be \$445.5 million over four years.

The Bill will also amend the definition of a Veterans' "Gold Card" for the purpose of Lifetime Health Cover. The amendment will ensure that Australians with a Veterans Gold Card, issued either under the Veterans' Entitlement Act 1986 or the Military Rehabilitation and Compensation Act 2004, are not affected by the application of Lifetime Health Cover.

This Bill implements a major Coalition election commitment. It will help to ensure the continued strength of Australia's public and private health system.

Debate (on motion by **Senator Coonan**) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

**FAMILY ASSISTANCE LEGISLATION  
AMENDMENT (ADJUSTMENT OF  
CERTAIN FTB CHILD RATES) BILL  
2004**

**First Reading**

Bill received from the House of Representatives.

**Senator COONAN** (New South Wales—Minister for Communications, Information Technology and the Arts) (5.12 p.m.)—I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

**Second Reading**

**Senator COONAN** (New South Wales—Minister for Communications, Information Technology and the Arts) (5.12 p.m.)—I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

*The speech read as follows—*

**FAMILY ASSISTANCE LEGISLATION  
AMENDMENT (ADJUSTMENT OF CERTAIN  
FTB CHILD RATES) BILL 2004**

The measures contained in this Bill ensure that the real value of fortnightly payments of family tax benefit Part A will be maintained.

Under the legislation before 1 July 2004, the family assistance safety net benchmark was 16.6% of the combined pensioner couple rate for children under 13 and 21.6% of the combined pensioner couple rate for children aged 13-15.

To ensure that the fortnightly payments of FTB Part A are not lower than the safety net benchmark, this Bill includes amendments to maintain wage-linked adjustments to fortnightly rates if the wage-linked adjustments exceed the CPI indexed amounts. Fortnightly payment rates will be adjusted at exactly the same time as they were before the introduction of the FTB Part A supplement.

The real value of the supplement, which is paid as a lump sum once a year, is maintained through indexation to the CPI.

These amendments will deliver on the Government's commitment to ensure that the real value of FTB is maintained in the future. They maintain the proportional parity of the fortnightly rate with the family assistance safety net benchmark while ensuring the FTB Part A supplement is indexed to the CPI. Through these amendments, the Government is putting beyond any doubt that it is committed to ensuring that the real value of the substantially increased assistance is maintained.

Debate (on motion by **Senator Coonan**) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

**BILLS RETURNED FROM THE  
HOUSE OF REPRESENTATIVES**

Message received from the House of Representatives agreeing to the amendment made by the Senate to the following bill:

Tax Laws Amendment (Long-term Non-reviewable Contracts) Bill 2004

**COMMITTEES**

**Foreign Affairs, Defence and Trade  
Committee: Joint**

**Membership**

Message received from the House of Representatives notifying the Senate of the appointment of Mr Hatton to the Joint Standing Committee on Foreign Affairs, Defence and Trade in place of Mr Beazley.



**SUPERANNUATION SUPERVISORY  
LEVY IMPOSITION AMENDMENT  
BILL 2004**

**AUTHORISED DEPOSIT-TAKING  
INSTITUTIONS SUPERVISORY LEVY  
IMPOSITION AMENDMENT BILL 2004**

**LIFE INSURANCE SUPERVISORY  
LEVY IMPOSITION AMENDMENT  
BILL 2004**

**GENERAL INSURANCE  
SUPERVISORY LEVY IMPOSITION  
AMENDMENT BILL 2004**

**RETIREMENT SAVINGS ACCOUNT  
PROVIDERS SUPERVISORY LEVY  
IMPOSITION AMENDMENT BILL 2004**

**AUTHORISED NON-OPERATING  
HOLDING COMPANIES  
SUPERVISORY LEVY IMPOSITION  
AMENDMENT BILL 2004**

**FINANCIAL INSTITUTIONS  
SUPERVISORY LEVIES COLLECTION  
AMENDMENT BILL 2004**

**Second Reading**

Debate resumed.

**Senator MURRAY** (Western Australia) (5.13 p.m.)—I continue my remarks on the *Superannuation Supervisory Levy Imposition Amendment Bill 2004* and related bills. On the face of them, these bills are quite clear. Under the current arrangements some small financial institutions have argued that they bear and have borne a disproportionate burden of the levies which are already in operation, but they acknowledge that the new arrangements provide greater equity. The obvious consequence of that is the reason we should support the bills, because even those who feel they are hard done by find the new levy arrangements better.

The second thing we should draw attention to is the very large number of levies and new taxes that have emerged under this government since 1996. There may well be a

case for their rationalisation and for more consistent policy concerning these levies. The other point to make is that the Australian electorate have not punished the government—they have re-elected it—so obviously the levies and new taxes have not upset that many people. But I think there may be a case, as there is for any mature government—and I think we can now classify this as a mature government, in its fourth term—for looking back over what has been done and seeing if further rationalisation is possible. These bills do not do that—they merely improve an existing situation. In the end the debate should be about the level of government services and how those are funded. I suppose the number of new taxes is not the critical issue, but it is a fact that people find that the presence of multiple different kinds of fees and taxes gives them a sense of being hit upon—of governments finding every way possible to sting them. You are often better off with a few bigger taxes than a multitude of minor and irritating taxes.

Back in 2001, ASIC collected \$201 million but only spent \$139 million. There is an issue of whether the funds raised should equal the funds spent and not find their way into general taxation. The purpose of a levy and the taxation philosophy behind a levy is that it should meet the specific expenditure—the hypothecated expenditure, almost—that it is intended for. Very often with government levies we hear the criticism that only part of the levy is used for the purpose the levy was designed for and the rest is simply taking profit and is off to the general taxation reserve. That is not good practice.

The bills do not address the issues of whether cost recovery is appropriate in regulating the financial service sector, whether current funding arrangements produce the most efficient or effective returns or even whether the level of funding for APRA is adequate, although I must say to the gov-

ernment that the reforms of APRA have markedly improved its performance—something which they well know. I think its earlier performance was pretty miserable. Cost recoveries are not really an increase in taxation, and you can never quarrel too much with that. The Australian Constitution seems to require seven different bills due to the requirement for a separate bill for each particular levy and tax. It is an odd thing that we are faced with a paper nightmare when it could have been done much more easily in another way.

Those are just some rambling and reactive thoughts concerning this. I and my party are certainly not opposed to these bills, nor are we opposed to the levies and how they are being used. These bills achieve the government's aim of implementing those recommendations made in the report on the review of financial sector levies that require a consequent legislative change. Whether the moneys in the end will do the good deed we need them to do we will only find out in the process, but I hope the government takes to heart my point that at some stage we need to review the entire philosophical basis under which we are operating at present with these multiple levies, fees and taxes.

**Senator COONAN** (New South Wales—Minister for Communications, Information Technology and the Arts) (5.19 p.m.)—I thank Senator Sherry and Senator Murray for their comments and note that the **Superannuation Supervisory Levy Imposition Amendment Bill 2004** and related bills are supported, so I will sum up very briefly just so that the government's position is clear. This package of bills implements the legislative elements of the government's response to the review of financial sector levies. The Australian Prudential Regulation Authority, APRA—as the prudential supervisor—the Australian Securities and Investments Commission, ASIC, and the Australian Taxation

Office, the ATO, in undertaking certain consumer protection and market integrity functions, which I am sure we all support, relating to prudentially regulated entities, perform vital tasks within the Australian financial system. The government is committed to ensuring that the three regulators are properly resourced to undertake these tasks both effectively and efficiently. It is therefore important that the financial sector levies which fund the regulatory activities can meet the evolving needs of prudential supervision and raise the funds from financial institutions in an equitable manner.

The existing levy determination arrangements were established following the 1997 financial system inquiry and the acceptance of the general principle that the cost of financial regulation should be borne by those who benefit from it. The arrangements are evaluated regularly every few years to ensure that they remain appropriate. In performing its evaluation, the most recent review was required to balance accountability, efficiency, transparency and equity with simplicity of administration and collection, and to ensure that the recommended options had the capacity to provide stable and effective funding for the regulators on a sustainable basis going forward. Fundamentally, the review's task was to consider how the burden of funding the relevant regulatory activities might best be distributed amongst the prudentially regulated industries and institutions. The government has therefore accepted the review's recommendations, subject to them not causing increases in levies paid by the smallest financial sector entities.

I might just pause there to emphasise, basically in response to a comment by Senator Sherry, that these bills are not actually introducing new taxes; they are simply changing the way of calculating existing levies to fund APRA, part of ASIC and the ATO. The levies only charge the amount considered necessary



to cover the cost of the regulators—no more and no less. While some key features of the current levy determination framework remain appropriate and are being retained, a number of important adjustments to the framework are being introduced through the package of bills to achieve equity. The amendments generally allow for increased flexibility in the way the levies are determined for 2005-06 and subsequent years. It is intended to ensure that the levies meet the objectives set for the review.

The legislative package restructures the levies into two components. The first component reflects the cost of supervising an institution and retains the structure of the existing levy arrangements of flat proportionate assets, subject to minimum and maximum levy amounts for individual institutions. The second component, and this is a new component, reflects system impact and vertical equity considerations, and is calculated as a proportion of assets. There is an overall cap on the amount that may be raised through this component by no minimum or maximum amount applying to individual institutions.

The statutory upper limit on the maximum amount of the first levy component is being increased to \$1.5 million for 2005-06 with an increased indexed factor applying in later years. This overcomes an inequity that has prevented, for example, the largest banks being levied significantly more than much smaller and far less complex banks. Small APRA funds, for instance, are being recognised as a separate class of superannuation fund with the intent that the small superannuation funds will be levied at a lower rate than other funds. This simply recognises that a single approved trustee commonly manages a large number of small APRA funds and that the primary focus of prudential attention is on the trustee rather than each of the individual funds.

In addition, authorised, non-operating holding companies in the general insurance sector are also being made subject to the levies for the first time. This brings them into line with the arrangements for the authorised deposit-taking institution sector. I should also thank Senator Watson for his remarks. I am sorry to have left Senator Watson out. I thank him for his usual erudite comments on these matters. As he mentioned, the fact that we have got seven bills and perhaps not a more simplified way of presenting this is because of the constitutional requirements for a separate bill for each levy, which relates of course to each industry sector. I do hope that these remarks have placed the government's response to the review in context. I think it has taken into account the varying circumstances of how to appropriately regulate different sized institutions. Once again, I thank colleagues for their comments. I commend the bills to the Senate.

Question agreed to.

Bills read a second time.

### **Third Reading**

Bills passed through their remaining stages without amendment or debate.

### **GOVERNOR-GENERAL'S SPEECH**

#### **Address-in-Reply**

Debate resumed from 9 December 2004, on motion by **Senator Knowles**:

That the following Address-in-reply be agreed to:

*To His Excellency the Governor-General*

MAY IT PLEASE YOUR EXCELLENCY—

We, the Senate of the Commonwealth of Australia in Parliament assembled, desire to express our loyalty to our Most Gracious Sovereign and to thank Your Excellency for the speech which you have been pleased to address to Parliament.

upon which **Senator Bartlett** had moved by way of an amendment:

That the following words be added to the address-in-reply:

“, but the Senate is of the opinion that the Government’s failure to ratify the Kyoto Protocol, to take strong action to reduce Australia’s greenhouse emissions and to urge the United States of America to do likewise, is putting at risk international efforts on climate change”.

**Senator BRANDIS (Queensland) (5.27 p.m.)**—This afternoon, I want to say a few words about what will, I believe, come to be seen as one of the transforming events of the early 21st century. I speak of the elections for the Iraqi national assembly and for 18 provincial councils, which were held on 30 January. I want to speak in particular of the courage of the millions of Iraqi citizens who, braving dire threats of intimidation by the enemies of democracy, made those elections such a triumphant vindication of those whose sacrifice brought democracy to Iraq, and I want to pose the question: while the struggle to create a democratic state in Iraq was at its fiercest, where was the Left?

Have you ever noticed how much the rhetoric and symbolism of the political Left is dominated by the language of war and struggle? Those on the Left speak of the class war and the class struggle; radicals, particularly in universities, delight in being described as militants; terrorists are commonly called freedom fighters; Third World populations are constantly being urged to wage war against their oppressors, usually the United States and other democracies; and postcolonial civil wars are invariably described as wars of national liberation. From Marx to Marcuse, the central concept of their political universe is revolution. In fact, one of the most enduring items of late 20th century kitsch is the image of the bereted and bandoliered guerrilla Che Guevara in the pose of iconic freedom fighter. Yet, notwithstanding the Left’s romanticisation of vio-

lence and idealisation of the revolutionary warrior, their victories are almost all rhetorical. Those of the Left are curiously absent when it comes to fighting the real wars of national liberation.

Nobody captured the mismatch between the heroic rhetoric of the Left and its moral cowardice better than did George Orwell, who, having himself fought and been grievously injured in the Spanish Civil War, knew a thing or two about what wars look like from the point of view of the people actually fighting them. In one of the greatest political essays ever written, ‘Inside the Whale’, Orwell quoted from the then fashionable Leftist posturing of WH Auden in his poem about that war:

... Today the struggle.

Today the deliberate increase in the chances of death,

The conscious acceptance of guilt in the necessary murder;

Today the expending of powers

On the flat ephemeral pamphlet and the boring meeting.

Orwell wrote of that stanza that it was:

... intended as a sort of thumbnail sketch of a day in the life of ‘a good party man’. In the morning a couple of political murders, a ten minutes’ interlude to stifle ‘bourgeois’ remorse, and then a hurried luncheon and a busy afternoon chalking walls and distributing leaflets. All very edifying. But notice the phrase ‘necessary murder’. It could only be written by a person to whom murder is at most *a word*.... Mr Auden’s brand of amorality is only possible if you are the kind of person who is always somewhere else when the trigger is being pulled. So much of left-wing thought is a kind of playing with fire by people who don’t even know that fire is hot.

Orwell, the soldier who actually fought in the Spanish Civil War, never glamorized violence; Auden, the Leftist poet reclining comfortably in Hampstead, could afford to write cheaply of armed struggle, secure in the

knowledge it would always be other people who did the fighting.

Fast-forward 65 years, and we see the same thing in our own day. Once again, when a real war of national liberation was being fought, in Iraq, where were the Left? They were nowhere to be found. Forget the heroic rhetoric about liberation, fighting for freedom, the struggle against oppression. When it came to actually fighting a war of national liberation, a war to free an oppressed people, a war to instate democratic rights, where was the Left? At worst, they were howling denunciations against those who sought to liberate Iraq—the United States, Britain and Australia. At best, they were sitting on the sidelines, loud in their criticism of errors in policy but remarkably muted in their celebration of the great act of democracy which occurred in Iraq last week.

Whatever shortcomings there may have been in intelligence gathering before Operation Iraqi Freedom began, whatever errors have occurred in planning since the liberation of Baghdad, whatever criticism might legitimately be levelled at American policy makers and strategists for failing to anticipate the extent of the insurgency, one thing is crystal clear and cannot be denied: but for the liberation of Iraq by coalition forces in 2003, there would have been no Iraqi election last week. If the Australian Labor Party, the Greens and the Australian Democrats had had their way, the war would never have been fought, Saddam Hussein would never have been toppled and the election which took place last week could never have happened.

Australia is blessed by the fact that democracy came easily for us. Our democratic institutions were created by an act of democracy itself: by a referendum. For us, democracy has always been a given, and perhaps we take it too much for granted. But there

are very few democratic nations in our happy position. Many of the great democracies—America, Britain, France, Italy, India—had as their birthright wars of independence, civil wars or revolutions. For others, for instance Japan, democratic institutions were established following armed occupation. Merely because it was Australia's historic good fortune that our democracy came to us by peaceful means, we must never lose sight of the fact that for most people democracy was created by war, and wars are won by fighting. And so it was with Iraq.

Even before it had happened, the usual apologists—the John Pilgers, the Noam Chomskys, the Gore Vidals—along with our own pallid local imitators of the great Leftist sages, denounced the Iraqi election. They denounced the imposition of 'Western', or even 'American', cultural values on an Islamic nation—as if democratic government was a right vouchsafed only to the peoples of the West. These were, if my memory serves me correctly, among the very same people who welcomed the introduction of democracy in South Africa—yet South Africans are hardly Westerners.

In one form or another, democratic forms of government now exist in nations of all cultures and all races: in India, in Indonesia, in Japan and Taiwan, in Israel and in the Palestinian Authority, in Afghanistan, in Russia, in the Ukraine, in East Timor. Many of the very people who were swiftest in their denunciation of the military action which made democracy possible in Iraq were eager to invoke the authority of the United Nations. Yet the core document of the United Nations, the political testament which is its whole *raison d'être*, is the Universal Declaration of Human Rights. The declaration, by article 21, proclaims:

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

...      ...      ...

(3) The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

And, by its preamble, the declaration provides that it is the duty of member states to work to achieve 'the promotion of universal respect for and observance of human rights and fundamental freedoms' which it proclaims.

How is this so different from what President Bush said in his address to this parliament the year before last:

Some are sceptical about the prospects for democracy in the Middle East and wonder if its culture can support free institutions. In fact, freedom has always had its sceptics. Some doubted that Japan and other Asian countries could ever adopt the ways of self-government. The same doubts have been heard at various times about Germans and Africans. At the time of the Magna Carta, the English were not considered the most promising recruits for democracy. To be honest, sophisticated observers had serious reservations about the scruffy travellers who founded our two countries.

Every milestone of liberty was considered impossible before it was achieved. In our time we must decide our own belief: either freedom is the privilege of an elite few or it is the right and capacity of all humanity.

In the 16 months since President Bush spoke those words in October 2003, democratic elections have been held not only in Iraq but also in Afghanistan and in the Palestinian Authority. In the first two of those instances, but for the use of external military force, led by the United States and supported by Australia, to displace appalling dictatorships—the Taliban in Afghanistan; Hussein in Iraq—the elections would never have happened.

What President Bush said in October 2003—and on many other occasions before

and since—did not place him outside the mainstream of American foreign policy, as many have suggested. It was not in substance different from the noble sentiment which animated President Wilson when he proclaimed his famous Fourteen Points and told congress in January 1918 that the United States was 'willing to fight and to continue to fight for the principle of justice to all peoples and nationalities, and their right to live on equal terms of liberty and safety with one another, whether they be strong or weak'; or the famous words of President Kennedy's inaugural address in January 1961; or President Reagan's history-changing speech at the Brandenburg Gate in June 1987, when he challenged Gorbachev to tear down the Berlin Wall.

But the final arbiters of the rightness of the military action to topple Saddam Hussein must be the Iraqi people themselves. In the days before 30 January, the world held its breath for fear that insurgents and terrorists would destroy the election. The most notorious of them, Abu Musab al-Zarqawi, announced 'a bitter war against democracy and those who seek to enact it'. Iraqi citizens were repeatedly warned that, if they participated, they would put their lives at risk. On 10 January, for instance, one insurgent group, the Secret Republican Army, announced that 32 snipers would be emplaced at polling places in the province of Wasit, south of Baghdad. Another threatened that it would 'wash the streets with voters' blood' if they dared to participate. Similar threats of the same nature were made throughout Iraq by a variety of insurgent militias.

There can surely never have been a time, in any nation on the earth, that participation in an election was accompanied by such grave peril. If the Iraqi people did not want a democracy, they certainly had no incentive to participate in one. And what happened? The people of Iraq took their lives into their

hands and voted in their millions, in numbers which far exceeded anybody's expectations. Of a total eligible voting population of about 14.2 million, turnout was initially estimated at 72 per cent. That was subsequently revised downwards to 57 per cent. The latest estimate of turnout is 60 per cent. Understandably, the turnout was much higher in the Kurdish north and the Shiite south than in the Sunni centre but, even there, Sunni Muslims voted in surprisingly large numbers against the wishes of their religious leaders and the threats of terrorists.

That, by exercising for the first time the right to vote, Iraqis placed themselves in mortal peril is beyond doubt. Early estimates suggest that at least 44 were murdered at polling places or shortly after voting. The danger of attack was made even greater by the practice of dyeing the forefingers of voters in ink to prevent double voting, which made those who had exercised the right readily identifiable to terrorists. In Baghdad, for instance, according to CNN reports four voters identified by their ink-stained fingers were kidnapped by terrorists and murdered with grenades.

But the Iraqis were undeterred. There could be no more emphatic answer to the cynics who ridiculed the election even before it had happened, no more persuasive vindication of the use of military force to liberate Iraq and no greater vote of confidence in the sustainability of a democratic future for Iraq than the fact that, in a voluntary ballot, on even the most conservative estimate, more than half of the adults of that nation put their lives on the line, took themselves to their local polling place and cast their vote.

How does that compare with the more mature democracies? At last year's American presidential election, the turnout was actually lower—56.2 per cent. In the 2001 British elections, it was about the same—59.4 per

cent—as was also the case in France, where in the final round of the 2002 elections for the *Assemblée Nationale* the turnout was 60.7 per cent. And indeed, at the most recent elections for the European Parliament, the turnout of the French was just 42.7 per cent, and that of the Germans was 43 per cent. How ironic that the European nations which did more to oppose the liberation of Iraq than any other—the French and Germans—should care less about their own democracy than the newly freed people of Iraq care about theirs.

And where was the Left when the battle for democracy in Iraq was being fought and won? Where were the balladeers of struggle, the gladiators of the printed page and the warriors of the spoken word, the moral bankrupts who endlessly talk about democracy and evoke the dignity of the Universal Declaration of Human Rights but never do anything about bringing them to accomplishment, the Che Guevara T-shirt wearers, the spineless bourgeois Leftists who affect the language of struggle and national liberation as a fashion statement—who, just like Auden during the Spanish Civil War, thrill to the frisson of the tough-guy rhetoric but are always somewhere else when the shooting starts?

For the Left, the romance goes out of wars of national liberation when they are being fought by democracies and, even more shockingly, if the democracies are led by conservative leaders such as George Bush and John Howard. The Left's enthusiasm for national liberation can never withstand its appetite for self-loathing, particularly of its own country and its own democracy. The truth is that, when the struggle to liberate Iraq and to create a democracy in Iraq was being fought and won, the parties of the Left were nowhere to be found. In fact, it was worse: they were as swift in their denunciation of the liberation of Iraq as they were

slow to welcome the success of its election or to applaud the courage of those who stared down the terrorists, put their lives on the line and voted in their millions.

Historians of future generations will, in my view, come to see 30 January 2005 as a milestone in the long story of democracy and a turning point in the modern history of the Middle East. Although the war of liberation which made it possible was denounced by fashionable opinion in all of the older democracies, including ours, but for that war there would have been no popular election last week. The people of Iraq would still be denied that which the Universal Declaration of Human Rights declares to be the universal right of every person.

We should all be humbled by the courage of the Iraqi people. I, for one, am overwhelmed by the emphatic vindication of democracy we saw last week and, like everyone on this side of the chamber, very proud of the role Australia played in making Iraqi democracy possible.

**Senator TIERNEY** (New South Wales) (5.46 p.m.)—I rise this afternoon to speak in the debate on the address-in-reply to the Governor-General's speech which opened the Australian parliament at the end of last year. This followed the election victory of the coalition government, a victory which provides tremendous opportunity and cements in place the agenda of this current government. For too long, we have been frustrated in this place by obstruction, particularly by opposition members and smaller parties. We have put forward a very clear agenda over eight years and this has been blocked or watered down. One of the great outcomes of that election was the fact that we won control in the Senate. Following 30 June, we will have the opportunity to put in place that agenda. We have clearly spelt it

out and it is so crucial for the future development of our great country.

In his speech, the Governor-General said:

Few nations can claim the special gifts that providence has bestowed on this country—as a beacon of democracy and tolerance underpinned by a prosperous economy and a fair society.

We now have the opportunity to grasp what this last election has given us, to provide for Australia those opportunities and, in this place, to provide the legislative underpinning for those opportunities.

It is a far cry from the situation that existed when I came into this chamber 14 years ago. At that stage, in the early parts of 1991—ironically, the first Gulf War was just wrapping up then, and now, as I leave the parliament, we find ourselves still involved in a gulf war—the economic circumstances were very different. We were in the worst recession since World War II. In the first month I was in this place, unemployment peaked at 11 per cent and the inflation rate had been incredibly high, getting up around seven or eight per cent. We had experienced interest rates of 17 and 18 per cent just a year or two before. For people to build businesses, for families to build prosperity and try and gain employment, it was a very bleak landscape at that time. Because of the abundant natural resources we have in Australia but, more importantly than that, because of the developing intellectual and cultural resources of this nation, the nineties showed us as very resilient people. We have bounced back, but to some large extent we have bounced back because the policies put in place during those years are underpinning our current prosperity. We now have an opportunity to build on that.

We are only a small country, but my time at the United Nations actually demonstrated very dramatically to me what a wealthy country we are in comparison with the situa-

tion in many other nations. There are 191 nations in the world, and we actually rank 11th in size of economy. That is quite dramatic when you think of it: 11th out of 191. Mind you, there are some very big economies above us. We are up there as major players, not only in terms of the size of our economy but also in terms of trade.

One thing came home to me very clearly a little after I finished my time at the UN. It was with regard to the tsunami disaster and how well developed our skills and our infrastructure are to help those in need. There was a magnificent response from Australia following 26 December. We were in there very quickly helping. The impressive thing is that we had the equipment and infrastructure to actually help in areas which did not have such assistance. The fact that we could turn salt water into fresh water at the enormous rate of 240,000 litres a day made a difference between life and death in many of these countries, particularly in the Aceh region of western Sumatra. Our ability to do this is because of the strength of our economy, the strength of our society and the spirit of our people. We can drive this forward with the opportunities that now lie before us in putting into place the full program of the government.

One of the areas I want to start with relates to the industrial relations program. This is one that I have been very close to as Chair of the Senate Employment, Workplace Relations and Education Legislation Committee. After 1996 we started out well, with a reform agenda for industrial relations, and we made some progress—none of it thanks to the Labor Party, mind you. It was due to the Australian Democrats and the way in which they are prepared to negotiate a new industrial reform agenda. We did make that initial progress but then in the last few years it got bogged down.

We have made very clear what we want to do in the industrial relations area, and every three years the Australian people have given us a mandate to do that. But we are also constantly blocked in what we are trying to achieve. The best example of that is the unfair dismissal laws. There will be nothing more important to drive the Australian economy through its main engine room, the small business sector, than reform in this area.

Every time we have put this up to the Senate committee we have had the unions come round and give their point of view. Employers gave their point of view, the government gave their point of view, and then it was blocked. About a year later, we returned and we did exactly the same thing. It was a bit like *Groundhog Day*: we just kept coming back, and back again, going through the same process and not making any progress. It is absolutely terrific that we will now have the opportunity to do that and to change so many other areas in workplace relations. The Australian workplace agreements that this government have brought in have been very successful in so many areas but have been resisted fiercely by the unions, particularly in the areas of the Public Service and universities.

Nothing will free up the Australian work spirit more than the opportunities that can be provided in a freer industrial relations climate. We now have the opportunity to do that. Our minister has foreshadowed that we will try to move towards one industrial relations system. Over 10 years ago, the Victorians handed over their powers in this area to the federal government, and it works quite well. When the Brogden government is elected in New South Wales, I am sure it will do the same thing. We are moving towards a unitary system. Again, this will create great efficiencies in the Australian economy, because nothing is more dissipating and distracting than two whole different sets of

rules, state and federal, cutting across industries and cutting across workplaces. That is about to change with the reforms that will come in under this government.

The second area relates to education, in particular universities. The federal government of course have the major responsibility for this area, but again we have been frustrated in the Senate in the reform agenda that we have put forward. We had to go through quite a number of compromises with the Independents in this place to advance the reforms of the Crossroads review and we did make great progress. Now there is the opportunity to make greater progress.

One thing that is missing from our tertiary education system is a significant private sector. The irony is we have a big private high school sector—one-third of students go to private schools—but when you get to the university sector it is very tiny. When I was in the United States I took the opportunity to have a look at the private universities. I went to places like Princeton, Columbia, MIT and Harvard. These places have built, on private money, a huge university structure. One of the reasons why we have not been able to find places for students over the years is that that part of our system has been missing. But we now have 27 institutions that are moving towards or actually offering degree-level courses. Their students, for the first time, have access to FEE-HELP. We are starting to build this private sector. Notre Dame university, based in Perth, is opening a campus in my own city of Sydney, and that is another private campus of an established university. So, those sorts of developments are now possible.

The way in which, over the last 10 years, we have been able to provide alternative sources of money for our university sector means that it will be able to move towards a properly developed higher education system,

with enough students and enough research going on to underpin the modern Australian economy, which is going to be very much an information economy, based so much on knowledge industries. The need for that to be underpinned by the system that we are now developing is incredibly important. Again, there will be opportunities in this place to bring these reforms forward in the next period of parliament.

The challenge of the ageing population is one of the things that the government have to really focus on in this next term. We had some limited success, going back three budgets ago, when a major review was done of where the ageing Australian society was heading and its implications for the Australian budget. The 40-year out projections, in terms of an ageing population, show that there will be an enormous increase in costs and in the burden on the Australian federal government budget over the next 40 years. They will rise in two ways: (1) the sheer volume of people in the retired population will increase and (2) the costs of maintaining quality of life will increase because of developments in medical science, meaning that there will be a whole range of procedures, a lot of them expensive procedures, to help maintain people's quality of life—and they will rightly demand access to these services.

So, how will that be funded? It cannot be funded totally from the budget. There has to be a cooperative arrangement in our system whereby people pay and government pay. We have moved towards that in some of our reforms over the last few years, and we now have an opportunity to position the country to take into account this ageing population and prepare for it properly. If we wait 20 years and do not have such measures in place, we are going to be in a situation where the budget is going to blow out incredibly rapidly, and that means a much higher tax regime, which will have all sorts of implica-



tions for the Australian economy as well as for the budget.

Another area that will change dramatically and where we have been frustrated over the last eight years is communications. The sale of Telstra has been on our agenda for eight years. There is no reason why governments should be in the ownership of telcos. This is a historical artefact. When other countries have moved to a more privatised system their communications systems have become more robust and have developed properly, when some of the disciplines of the market have been brought into the equation.

There has been great concern out in the community about the protection of the services of telecommunications. A lot of this fear, whipped up by the opposition, has been ill founded. We have a Telecommunications Act that has considerable protections in it. It does not matter whether it is Optus, which is entirely private, or whether it is Telstra, which is half government and half private, or whether it is a fully privatised Telstra, these matters can be controlled by a legislative regime. Things have improved dramatically over our time in government, particularly the services to rural and regional Australia. Although these have not been perfect, when I compare the current situation with some of the reports we were getting from the old Telecom, back over 10 years ago, about the level of service providers to customers, the rate of repairs on broken equipment and cost structures, things have improved dramatically in this new information age. They will continue to improve.

The last area I want to deal with relates to the future of Australia's trading relations with other countries. We are the 12th largest trading nation in the world and we have enormous opportunities, not just with our raw mineral products and crops, which have been the mainstay of our economic devel-

opment for so long. In this new information economy, there is such enormous opportunity in the skills of the Australian people developing products and services that can be sold overseas.

One of the most dramatic developments and one of the greatest achievements of this government in the last term was the signing of the United States-Australia Free Trade Agreement. We are now working on a free trade agreement with China, having signed one with Thailand. These opportunities for using our skills and niche markets in conjunction with very large economies like China and the US mean that we will not face the problem of unemployment in the future. As a matter of fact, the paradigm has already shifted. When I came into this place, unemployment was the big problem. We now face skill shortages. That will be a brake on the economy unless we can move towards improving those skills.

The creation at the last election of the Australian technical colleges—a federal government initiative to better link the school system into the trade system and provide a lot of the missing skills—will be the sort of program that will help our economy develop, help us continue the stream of goods and help to provide a trading environment where we can improve our balance of payments, which is probably the biggest economic challenge that Australia faces today. As I look to the future from the Australia that we have in 2005 and as I compare it to the Australia of 1991, when I came into parliament, I am very optimistic about how Australia has come through very tough times. I believe the measures that the Howard government has implemented over the last eight years, and what it will implement over future years, will provide Australia with a very bright and prosperous future.

**Senator FERGUSON (South Australia)** (6.04 p.m.)—I commend my colleague Senator Tierney for his comments. There is only one comment that I disagree with. I like to compare Australia in 2005 with the Australia we inherited in 1996. As we witnessed at the recent election, the Australian people have so much more confidence in 2005 because of what this government has done for them compared with how they felt given the state the country was in in 1996. It only goes to show, although the election is some time past, how much confidence the Australian people have in this government, which was returned with a resounding, increased majority. It is one we are very proud of and it is due to the fine leadership that has been shown by the Prime Minister and the members of his cabinet and ministry.

I commend Senator Knowles, who moved this motion and who is finishing her term in this Senate. She and Senator Tierney, who spoke just before me, have both made a tremendous contribution to this Senate in their own way. Both will be leaving us at the end of June; this is their last address-in-reply opportunity. Their colleagues know the work that they have put into both the party and this Senate. We commend them for it and thank them very much for the good work that they have done over all those years.

When I stopped to think of the election result it reminded me of my entry into the Senate in 1992, when there was a Labor government. I was paired to that great Labor electorate of Grey in South Australia, under the system that we have. Grey is an electorate that had been held by the Labor Party since the Second World War for all but three years, from 1966 to 1969. I set up an office in Grey in Port Augusta because you could reasonably class it as the centre of the electorate, although the electorate went from the Western Australian border to the Northern Territory border to the Queensland border to

the New South Wales border—it was an enormous seat.

From the time I set up the office and we preselected a candidate to stand in the seat of Grey—my good friend and colleague Barry Wakelin, who is well known to my colleagues on this side—we had to achieve a two per cent swing to win Grey in 1993. Since 1993 we have achieved more than that two per cent swing and Barry Wakelin won that seat by two per cent in 1993. In 1996 he increased that to about six per cent, in 1998 he increased it to eight per cent, in 2001 he increased it to 10 per cent and in the 2004 election Barry Wakelin had a 14 per cent majority in the seat of Grey, only one per cent of which has come about because of a redistribution. So I want to pay tribute to my good friend Barry Wakelin, who shows what you can do when you work hard as a local member, even for a vast electorate like Grey. The people who voted for Barry Wakelin are very similar to the people who voted for all of the other coalition candidates throughout Australia. They had confidence in him, they had confidence in what this government was doing, they liked the decisions we were making and they knew that we took them away from some of the serious deficiencies that the previous Labor governments of both Hawke and Keating had left them with in their businesses.

Grey is a very large electorate and Barry Wakelin, his family and his staff are to be congratulated on the incredible efforts they make at all times of the electorate cycle for their electorate. I was at the opening of his new office in Port Pirie last week because I now live in the electorate of Grey, which I had never done before. I had always been in the electorate of Wakefield. Senator Hill opened this office, and I remember him saying that when he opened Barry's first office in Whyalla there were about 12 people in attendance to witness the event. With Barry

being brand new in the area, there were just some local, loyal supporters there to witness the opening. With the opening of Barry's new office in Port Pirie last week—it had shifted because of the changing nature of the electorate—there were well over a hundred people to witness the opening. I might add, Senator Bishop, that it is a good, strong Labor town where you would not expect many of the local people to attend. The Mayor, many of the local identities and people from all over the electorate had come a long way to not only pay their respects to Barry Wakelin but also acknowledge the fact that his hard work has done wonders for his electorate and has also made it into what is now a safe seat.

This was a vote of confidence in the policies of the coalition government in regional Australia. Many country people recognise the hard times caused by some of the economic mismanagement that was characteristic of much of the Keating years. I well remember paying 23 per cent interest on my farm. It of course meant for those who had to borrow money that, if you stayed in that position for long enough, every four years you bought your farm again. Certainly, given the value of the money, it was like buying your farm again.

During the debate in the Senate chamber today the opposition had the temerity to question the economic credibility of this government. We heard the ministers respond, quite rightly, by reminding us of the times when we were paying interest rates in excess of 23 per cent and housing interest rates of 17½ per cent. The Australian public has never forgotten that. Even those young people in Australia who cannot remember and did not vote in those days all know what difficult times that caused their parents and what a crippling effect it had on small businesses in Australia. I remember the argument being put at the time of the introduction of

the GST. We had members of the opposition telling us how many businesses would go out of business because of the introduction of the GST, how it would cripple small business. I can tell you, Mr Acting Deputy President, that nothing crippled small business like high interest rates. It is to the credit of this government that, throughout the almost nine years that we have been in government, we have been able to keep interest rates low for business and professional borrowings and also for housing loans. That is one of the reasons why people, particularly country people, have every confidence in the Howard government and the way that they manage the economy.

In my first speech to this chamber in 1992 I highlighted the concerns of the then Labor government's neglect of rural and regional South Australia. Access to services was limited and prosperity had dwindled, partly because of high interest rates, and many farmers suffered the loss sometimes of their farms and their livelihoods. One of the greatest records of achievement of the Howard government has been through an increased understanding of the starkly different way of life between metropolitan and nonmetropolitan areas. I believe there was a period in the seventies and eighties when the gulf of understanding between the urban population and the rural population was growing markedly. I can understand that because I remember when I was a young fellow that the population of the country was much greater. Not only that, nearly everybody who lived in the city had a country cousin of some sort and so people in urban areas tended to visit the country, whether it was in school holidays or for any other form of holidays. So there was a greater understanding between urban and rural populations. I think that the Howard government has done much to try and increase that understanding between country and rural areas so that people who live in

cities understand the difficulties that rural people go through. They understand hardships caused by natural events like the recent tragic bushfires on Eyre Peninsula in the electorate of Grey. They realise the devastation that can be caused by drought. I think that this government has helped to improve that understanding, which began to go the other way through the seventies and eighties.

The government has shown an increased awareness of the needs of rural and regional Australians and I, like many of my colleagues from rural areas, were delighted to hear the Governor-General, in his speech, talk about the government's fourth term agenda to provide better services in regional Australia. The electorate of Grey is also going to benefit from the government's commitment to establishing technical colleges across Australia, with a high likelihood that one of these will be in the Whyalla-Port Augusta region. The Governor-General highlighted the key platform that resulted in the successful re-election of the Howard government. This included faith in the capacity of Australians to exercise choice in their daily lives. If there has been one continuing vein throughout the prime ministership of John Howard it has been giving Australians some choice in their daily lives. To see that choice exercised and giving Australians that choice is an area that clearly sets us apart from the opposition.

I speak about the electorate of Grey partly because of my good friend Barry Wakelin, whom I have worked with for so long, but also because it is indicative of an electorate in Australia that has benefited from the Howard government and from all of the policies that have been put into place. The people of Grey, like people in other electorates across Australia, have every reason to feel confident that the future under the re-election of the Howard government will clearly be in their best interests.

Having been paired with the electorate of Grey for all that time, there was a sudden change for me in this election campaign. Having lived in the electorate of Wakefield all my life, I suddenly found myself living in the electorate of Grey but finding myself paired with the new electorate of Wakefield, which I now do not live in. That was a challenge that I relished and it was a challenge that was undertaken with some tenacity by all the people in the Liberal Party in the new electorate of Wakefield. A wonderful candidate was selected—David Fawcett, who has since become the member but who was a test pilot in the Army and had enormous credentials. He is a person who had not come up through the party all of his life. He was not someone who had a strong involvement with the Liberal Party, but he did believe in what the Howard government was doing and he joined the party and was successful.

As our Prime Minister has often said, we need to introduce into our chambers of parliament, both the House of Representatives and the Senate, people who have different backgrounds in life—people who have lived the life of ordinary Australians, people who on Friday nights have never been sure what their wage packet is going to be, people who are involved in small business and enterprises of their own, where the people who get paid first are the ones who work for them and the ones who get paid last are themselves. I have been in that position. In my early years of farming I can remember my brother and I paid ourselves and our working man exactly the same wage because things were pretty tough. We always knew we had enough money to pay our two working men's wages, but we were never quite sure whether we were going to have enough to pay our own wages. In good years we got a bit more and in poor years we got a bit less, but there was no certainty.

Of the 14 new members in the House of Representatives who were candidates in this election—candidates who were attracted to the Liberal Party—some 11 or 12 of them have had experience in life outside of politics. They had not been long-term members of the party. They are people who have lived the lives of ordinary, everyday Australians. They are people from all walks of life who have come to this place with the sort of experience that I think is very good for making sound judgments as to what is best for other Australians.

I worked with David Fawcett in the electorate of Wakefield—a seat, through redistribution, notionally held by the Labor Party by just under two per cent. There were many within our group who were pessimistic. With a longstanding Labor member—and one I can say who was quite well respected: Martyn Evans, who had been the member for Bonython—they were somewhat pessimistic as to the opportunity for success for our party. I have never worked with a candidate who worked so hard on the ground every day doorknocking, as did David Fawcett. I must also pay tribute to the former member for Wakefield, Mr Andrew, who was the Speaker of the House in the previous parliament, who spent day after day with the new candidate doorknocking in the hardest parts of the electorate. I do not know of any other retiring member who has ever worked so hard to win a seat—which had previously been a safe Liberal seat all the time that Mr Andrew was the member—to make sure that his successor in the seat with the name of Wakefield would be the Liberal candidate at the election and to further help the Howard government.

It was a tremendous thrill for those of us who were involved to find out—not on the night because things were pretty tight by the time we had finished counting on the night, but we were pretty sure that we were going to win—that the Liberal candidate, David

Fawcett, had achieved a swing large enough to win the electorate by something close to 1,000 votes. I think it was a remarkable achievement. It was a remarkable achievement by all the volunteers within our party who, with some due modesty, actually beat the opposition on the ground, thinking that they could not win the seat. Whereas I think, without being too unkind, Martyn Evans and the people who supported him felt that they would be able to retain the seat even though there had been some swing against them the time before.

To see the hard work of our candidate, David Fawcett—doorknocking day after day for a period of nearly six months, because he resigned from the Army as soon as he had won preselection—come to fruition is something that we should be proud of. It gives an indication that a person with a strong commitment, a person who wants to follow an ideology, a person who wants to represent people in this parliament, can achieve this through sheer hard work in many instances, even when you are trying to win a seat away from a sitting member. I was delighted. I pay a great tribute to all those people in the electorate who came down from rural towns within the electorate to man polling booths in what we would call the hard Labor areas of that seat where there was always a Labor majority in the booth. They did not win those booths, but in some there were six and seven per cent swings to our candidate. To those people in the electorate who volunteered so much time and effort and took the trouble to support someone they believed would become a good new member of parliament, I pay a great tribute. They certainly received some reward for all of their efforts.

In conclusion I want to say a couple of things. The achievements of this government have been recognised by the people of Australia. They have been recognised because of what we have done, not what we have said

we would do. We have achieved all those things that were possible in the nearly nine years that we have now been in government. The list of government achievements is endless, so I will not go into them now. Above all, the key thing is the confidence that this government has given to small business operators within Australia. The engine room, the driving force, of our economy is small business operators throughout Australia. I think the number is something like 800,000 small businesses. I am not sure of the exact number but I know it is something like that.

Small business have confidence that, one, this government is best placed to keep their interest rates low and, two, this government is prepared to tackle industrial relations—and it has promised further reforms which I think will give further incentive to small business. I think small business, being the generator within our economy, is in for a good time. The flow-on effect from that will be that Australians now and in the future will place their confidence in the coalition government for what it has achieved over the past eight years and for what it promises all those people in the future.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Industry, Tourism and Resources) (6.22 p.m.)—I too am very pleased to be part of this address-in-reply to the Governor-General's opening speech. I will take up the tone that Senator Ferguson used in speaking about the electorate in which he was so successful a contributor—

*Senator Ferguson interjecting—*

**Senator TROETH**—I am about to speak about that. Firstly, I should echo Senator Ferguson's words and say how proud I am to be part of the Howard government, which has now been re-elected for the fourth time. I was delighted on my own behalf to be re-

elected for a third term in the Senate as part of the coalition Senate team in Victoria.

Like Senator Ferguson, I was responsible for an electorate in Victoria—the electorate of McMillan. McMillan has been won again by Mr Russell Broadbent, the member in the other place. Mr Broadbent has had a distinguished career as a member of parliament at the federal level. He was previously the member for McMillan between 1996 and 1998, and before that he was the member for Corinella between 1990 and 1993, before that seat was abolished. As Senator Ferguson said, not only has Mr Broadbent given total devotion to the Liberal Party over the 20 years or more that I have known him; he has also pursued a very successful career in small business. He and his wife, Bronwyn, ran a Mensland store in Pakenham, which was an extremely successful business enterprise. If I am not mistaken, he and Bronwyn were the second generation of his family to run that store before it closed a little over 12 months ago.

McMillan is a fascinating and diverse electorate. It takes in what can now be termed the outer suburbs of Melbourne on the eastern side. Formerly, the area of Pakenham and Cranbourne were part of the countryside. Indeed, the Pakenham Racing Club is now on the edge of suburbia. In that area very large housing estates are being established, full of young, aspiring, hardworking young couples—usually with young families—who are looking forward to making a better life for themselves far away from the city centre of Melbourne but in an area where they and their families can grow and prosper. Included in the new boundaries of McMillan, which were drawn up between the election just past and the election of 2001, is the rolling, rural landscape of South Gippsland, which encompasses some of the richest beef and dairy country that you would ever want to see. The farmers in that district

are very successful small business men and, together with the tourism and residential developments along the coast, that area is geared for development that is, I hope, not too fast but certainly well planned and that will integrate tourism and the local economy to a great extent.

I worked with Mr Broadbent intensively for the year in which he was preselected, and I was absolutely delighted when he was elected with a substantial majority at the last election. I congratulate him and I am delighted to have been a part of that.

I would like to move to a wider consideration of the Governor-General's remarks, particularly with regard to trade. Trade liberalisation has always been a goal of Australian governments, and we have tried to work through multilateral trade agreements, through bilateral trade agreements, through free trade agreements, through our membership in the World Trade Organisation and through our membership in regional trading blocs. As everyone would know, the US free trade agreement was successfully brought to a conclusion at the end of last year, and the timely conclusion of that was of the highest priority for Australia—for reasons that I will go into in a moment. As well, in June 2004 the Minister for Trade was successful in signing the Australia-Thailand free trade agreement, which will also bring us some benefits which I will detail. We will also continue to consider possible free trade agreements with China, Malaysia and the ASEAN nations—the latter in conjunction with New Zealand.

I am delighted that we will be investing an extra \$30 million over three years in the Export Market Development Grants program. Since coming to government, the Howard government has scaled that program far more towards small and medium exporters. From what I have seen of Austrade offices around

the world, all of those offices use the resources available to make sure that Australian exports have the freest possible entry into the country in which they are located. Far from being a mere bureaucracy, the Austrade offices that I have seen are very entrepreneurial and proactive in discussing Australian exports with likely importers and then seeing that it is brought to fruition. That has been a great success story. The government will also appoint 30 new export facilitators to maximise our export opportunities to the United States market, which I will detail in a moment, and we are also going to create export hubs in regional Australia through the co-location of the services of Austrade and AusIndustry.

I will move to a more particular examination of some of the benefits that the US agreement has brought to our country and especially to my home state of Victoria. The major Victorian merchandise exports to the United States are: beef, \$A260 million; motor vehicle parts, \$218 million; wine, \$134 million; and lamb, \$128 million. As I detailed in my remarks about McMillan, I am sure that beef and lamb from that district will play a particular role in those exports to the US. Going in the other direction, from Melbourne towards the western part of Victoria, no doubt the Pyrenees-Grampians wine region will also have a particular part to play in that, as will areas further to the west.

The United States is the world's largest market. It has a population of nearly 300 million and a gross domestic product of almost \$US11 trillion. It is the world's largest importer, the world's largest investor and the world's largest purchaser of goods and services. Victoria, my home state, has trade with the US. The United States is Victoria's largest two-way trading partner and its second largest destination for exports. In 2003, Victoria's total merchandise exports to the United States were worth \$1.8 billion. Three

of the state's top exports to the US—beef, lamb and automotive parts—will receive an immediate boost from the US free trade agreement, as will our very important dairy industry and our growing wine sector. The emerging biotechnology sector in Victoria will also benefit over the longer term from Australia's increased attractiveness to United States investment, as will the financial sector.

When the US free trade agreement was first mooted, there were many, many doom-sayers who said that this would never work. Right throughout the process, there were hurdles thrown up, particularly here in Australia, by those people who said that it would not work, that we were simply casting ourselves into the cauldron, as it were, to be eaten up by the fire of the US furnace and that our industries and our investments would vanish into the US, never to be seen again. The fact remains that, owing to the careful crafting of the agreement, we will be able to provide professional, business, education, environmental, financial and transport services. A framework to promote mutual recognition of professional services has been developed. This is a big gain for Australian professionals doing business in the United States. Our financial sector will undoubtedly reap the benefits associated with financing the increased trade in goods and services flowing from the agreement. So future access for Australia's financial services to the world's largest financial market is assured. In addition, the agreement guarantees that any future US liberalisation in this sector cannot be reversed. Australia and the US have agreed to closely and jointly consider a number of issues regarding the closer integration of our two financial sectors and report within two years of the agreement entering into force.

We will also be able to enter the vast market of government procurement. There is a \$A200 billion market in US federal and most

state government purchases of goods and services, and that will now be open to Australia. Australia will have a waiver from US programs favouring US firms and products, and all US federal government contracts over \$US58,550 and construction contracts over \$US6,725,000 will be open to Australian firms. Obviously, Australian preferences for small business and Indigenous people will remain.

One of the other major sources of debate or discussion was the Pharmaceutical Benefits Scheme. Access by Australians to affordable medicines under the PBS will be maintained under the free trade agreement. It reinforces our existing framework for intellectual property protection of pharmaceuticals. There are many other ways in which our national interests have been protected by this agreement—unfortunately I do not have time to detail them—and it is undoubtedly an agreement which will keep our national interests alive and provide an enormous boost to our primary and manufacturing industries as well as to the intellectual property market and intellectual technology as well. It is a personal delight to me to see that happen. As I said, I am particularly pleased with the developments in my own state of Victoria.

I noticed that a journalist reported in an article in the *Australian* newspaper today that there is a move to cut US farm subsidies. As we know, our agricultural industries suffer a great deal from the fact that the United States pays domestic subsidies to its producers in a way which then means that it is very difficult not only for our products to enter America but also for our agricultural products to be sold to other countries within the trading framework. So we suffer both ways. In fact, Cotton Australia's Chief Executive Officer, Philip Russell, says that US subsidies are estimated to cost the Australian cotton industry \$65 million a year, or between \$5,000 and \$6,000 per farm, because US



production subsidies encourage overproduction, which depresses prices and reduces export demand for the Australian product. That reduced demand translates into reduced farm incomes.

However, there have been some encouraging signs on the horizon of farm subsidies. For instance, Brazil, supported by Australia, recently took the United States to the World Trade Organisation disputes panel. The panel found in favour of Brazil—that is, that the United States programs were distorting world markets and were illegal under World Trade Organisation rules. The US government has appealed that decision, but this is a slight opening of the door. President Bush has apparently announced that there will be a degree of review of existing farm subsidies.

To give you an idea of the price disparity between what US growers get and what Australian growers get, US cotton growers are guaranteed US72c a pound whereas Australian growers have to take the market price of about US40c. We are out there in the open market. The US growers, in some industries, have their prices guaranteed by the government. Again, US sugar producers get US20.4c a pound while the equivalent price for Australian producers is about US8.7c a pound.

Our trade minister, Mark Vaile, has welcomed the move towards reducing farm subsidies, saying:

If implemented, these subsidies will go some way to reducing the disadvantages faced by Australian farmers and others, mainly from developing countries, in competing for markets around the world.

We have seen this scenario before. In 1995 there was a move to reduce subsidies and make cuts to payments to farmers in the United States through the Farm Bill. In the intervening time, subsidies and payments to farmers simply went up to more than they

had been before. With the decision by the World Trade Organisation that it can find against America, I hope that these systems can ultimately be dismantled and then our farmers will face a fairer market not only in America but also around the world.

I will move on very briefly to the Australia-Thailand Free Trade Agreement, which was signed in July 2004. Again, Australia will receive great advantages from being part of this. I would particularly like to concentrate on the area of tertiary education institutions because the export education market has been one of our successes in South-East Asia. In January, I was fortunate enough to take a study trip to visit Vietnam, Thailand, Cambodia and Malaysia. The standard of education that Australia has and the quality of the education services it can provide for Asian students here in Australia and also on the ground in that region is something we can be very proud of.

I understand that Swinburne University, Monash University and the University of Melbourne, all from my state of Victoria, are represented in Malaysia. Also, in Vietnam we have an extremely successful Royal Melbourne Institute of Technology set-up on two campuses, one in Hanoi and one in Ho Chi Minh City. The reason Australia is seen as a key destination in terms of both the export of Australian services and the facilities that we provide to Asian students here is that many parents—of a particular vintage—may have studied in Australia under the Colombo Plan. They see us as an ideal place for their children to study, given that we have a stable political regime, and they see us as an ideal place to invest in for property. Also, Australia is accessible in terms of distance if they wish to visit their children or wish for their children to come home for school term vacations. In that study trip I made, I was extremely proud to learn about what is being

provided by Australia in some of those countries.

For those people who are nervous about free trade agreements, I will give you a few examples from the Australia-Thailand Free Trade Agreement, which, as I said, was signed in July 2004. Thailand will permit majority Australian ownership of mining operations, up to 60 per cent. The previous limit was 49.9 per cent. Thailand will permit 100 per cent Australian ownership of companies providing management consulting services through a regional operation headquarters or associated company or branch. The previous limit was 49.9 per cent. Thailand will permit majority Australian ownership of major restaurants or hotels, up to 60 per cent—the previous limit was 49.9 per cent—and it will permit majority Australian ownership of companies providing certain maritime cargo services, up to 60 per cent.

There are many more examples that I could give, but I am limited by time. I would like to impress upon the Senate the way in which the free trade agreements are carefully entered into by negotiating teams and the way in which the whole process is carefully overseen so that Australia obtains the maximum benefit from them, which can only benefit our industries. I am personally delighted with the progress that we have made since entering government in 1996 and I can only hope that this progress will continue—and I know it will—given our very stable regime of low unemployment, low inflation and national prosperity. (*Time expired*)

**Senator LIGHTFOOT** (Western Australia) (6.42 p.m.)—I am privileged tonight to be able to participate in this address-in-reply to the speech made by the Governor-General, Major General Michael Jeffery, on 16 November last year. I do not necessarily want to continue where my colleague Senator George Brandis left off, but I also do want to

say something about Iraq. It is a country which I have visited and to which I was a guest—once last year and once this year, having arrived back only last week.

I want to briefly outline something about Iraq, not as I know it but statistically. Iraq is of course in the Middle East. It has the Persian Gulf at its southern extreme and it lies between and is abutted by Kuwait, Saudi Arabia, the Kingdom of Jordan, Syria, Turkey and, with a major border on its eastern side, the Islamic Republic of Iran. Its area is 437,000 square kilometres, with the land component being 432,000 square kilometres. Its coastline, by comparison, is only 58 kilometres. Its terrain—and I have seen a lot of it—is mostly broad plains and reedy marshes along the Iranian border down in the south but with vast mountain ranges to the north. The larger cities in the south are Umm Qasr and Basra. It has large flooded areas because it is fed by two major rivers, the Euphrates and the Tigris, with the Tigris only running into the gulf.

Iraq has a glorious imperial past spanning over thousands of years. The first civilisations could be said to have settled up to 10,000 years ago between the Tigris and the Euphrates rivers because of the rich flood plains supplied by those ancient rivers. A 12-year noncompliance with a United Nations resolution led to the Iraqi war, led by a coalition of nations, of which Australia was one, in March 2003. However, after the victory, the coalition worked assiduously to transfer power to a new sovereignty—one that would be based eventually on democracy—and that process began on 28 June 2004.

I went to Iraq two weeks ago to witness the election, to make sure that everything was run in accordance with the best possible practices given the appalling conditions that people in Iraq have suffered as a result of one of the great killers of the world, Saddam

Hussein, and, more lately, with the insanity of the bestial insurgents, who kill indiscriminately—regardless of sex, regardless of age, regardless of anything really. How anyone could kill innocent people in the name of a god, expecting to seek some divine reward, is beyond my comprehension. The areas that I visited were mainly in northern Iraq or Kurdistan and were near Mosul: Kirkuk in the south-eastern part of Kurdistan and Sulaimaniya in the central eastern part. I paid a visit to Halabjah, Arbil and Dahuk, which are all major cities—some bigger, some smaller—of the Kurdish part of northern Iraq.

I met Prime Minister Allawi, who I have met on a couple of occasions. This gentleman has conveyed himself in such an excellent manner that I hope he plays a major role in any new Iraq and particularly in any new federation. I also met the leader of the Kurds, his Excellency Jalal Talabani, who has for 45 years been what is termed a ‘peshmerger’—a patriot—who has fought for the independence of Kurdistan because of the appalling treatment of his countrymen, who happen to be different ethnically from the Arabs of the south. Mr Talabani is also certain to play a major role in any reorganised federation of Iraq.

The Kurds in the north make up approximately 20 per cent of the population of Iraq, which was estimated in July 2004 to be just over 25 million people. Of those people, 60 per cent are Shia, 20 per cent are Sunni and 20 per cent are Kurdish. It is the Kurdish people to which I wish to continue my remarks. The Kurdish people have a long and ancient history, something akin to that of the people who represent different backgrounds in this House. But Kurdistan, if I can call it that—the northern part of Iraq—is something of a special interest to me. The Kurds have been persecuted for decades. They have been persecuted by the Ottomans and persecuted

particularly by Saddam Hussein, a Sunni—one of the 20 per cent that has controlled Iraq over the past 50 years, although not always under Saddam Hussein.

Debate interrupted.

## DOCUMENTS

**The ACTING DEPUTY PRESIDENT (Senator Marshall)**—Order! It being 6.50 p.m., the Senate will proceed to the consideration of government documents.

### **Report to the Commonwealth under Air Passenger Ticket Levy (Collection) Act 2001**

**Senator BARTLETT (Queensland) (6.50 p.m.)**—I move:

That the Senate take note of the document.

The report from the Department of Employment and Workplace Relations relates to the Air Passenger Ticket Levy (Collection) Act 2001 for the period 1 April 2003 to 31 March 2004. It reports on the administration of the special employee entitlement scheme for Ansett group workers. My colleague and leader, Senator Allison, spoke in this place on 7 December last year about the administration of this scheme and drew the Senate's attention to the fact that not only have Ansett workers not received all their entitlements but the Australian travelling public have paid their Ansett ticket levy in the belief that the money was to go to Ansett workers when in fact it has gone into government coffers. We have now learned that the money is to be used to prop up this government's war on terror in the form of aviation security related measures such as joint agency antiterrorism exercises in regional areas rather than to be spent on workers' entitlements.

I think it is appropriate that the Senate and the public are aware that the report tabled today covers the period 1 April 2003 to 31 March 2004. It has been tabled nearly one year after the end of the reporting period and

less than two months before the end of the next reporting period. Given the brevity of the report, I cannot understand why this would be the case. I think it would be helpful if the government or the minister could provide an explanation about that.

The report tells us that the government contracted SEES Pty Ltd, a private sector entity, to loan the administration of Ansett \$350 million to cover workers' entitlements—a loan which the Commonwealth underwrote. Senator Allison has asked questions on notice to find out about the ownership of that company but has not yet had an answer to those, as I understand it. The Commonwealth then recouped the money from the administrators of Ansett, through Ansett asset sales, covering the cost of the loan. At the end of the reporting period last year, that figure had reached \$159.45 million, but since then a total of \$218 million has been repaid. In addition to recouping the money for the loan from Ansett administrators, the Commonwealth levied a ticket tax. The Australian travelling public was told that this was the Ansett ticket levy—money to pay for Ansett workers' entitlements. We are now finding out, however, that the Ansett administrators are paying for Ansett workers' entitlements by repaying the government loan while the government profiteered on the ticket levy, pocketing the travelling public's funds and using it to pay for other measures.

This might not be so bad were it not for the fact that Ansett workers are still waiting for their full entitlements. The government has said on numerous occasions that all Ansett employee entitlements have been paid up. This is only true to the extent that the employees have been paid the government's own very restrictive level of entitlements that it said it would pay. For example, there is a maximum of eight weeks redundancy pay. This was according to the government's so-called community standard. I believe the

government has not clearly explained how this so-called community standard was arrived at. There are workers who have worked for Ansett for decades and who are owed more than eight weeks pay, so to say that they have been paid their full entitlements is simply not accurate.

Last year Senator Allison called for the government to release the money that it has pocketed from Ansett asset sales and to return that money to Ansett workers. On 15 December last year, the government made a big deal of the fact that Ansett administrators have paid Ansett workers a further \$16 million in entitlements, but what the government did not say was that, on the same day, it collected a further \$10 million from administrators to repay the loan on top of the Ansett ticket levy that it collected. So that double-dipping continues. We certainly say that the government should immediately stop collecting funds from Ansett assets and direct that money where the public was told it would go, where, I would suggest, it would be most appropriately directed and certainly where people are entitled to have it go—that is, to the Ansett workers.

Question agreed to.

**Independent Review of the National  
Environment Protection Measures  
(Implementation) Act 1988**

**Senator BARTLETT (Queensland)** (6.54 p.m.)—I move:

That the Senate take note of the document.

This independent review of the National Environment Protection Measures (Implementation) Act 1988 was presented to the Department of the Environment and Heritage and was subsequently presented to the Senate today. I will not speak to it at length today because I would like to take the time to read it fully, and it has only been tabled today. I should note that it goes through the operations of the National Environment Pro-

tection Measures (Implementation) Act over the first five years of its life. It covers quite a range of areas and makes some very strong findings. I would like to examine those further before I speak on them here.

I wish to draw attention to the fact that it was only due to a Democrat amendment made all that time ago back in December 1998 that an independent report was required to be presented to the parliament after the first five years of the operation of that act. Without commenting specifically on the content of it, the fact that we are able to have an independent review provided to the Senate is something of great value. All of us here, in various ways, spend a lot of time examining proposed legislation—sitting on committees, looking at evidence, hearing from people in the community and hearing assurances from government and from other interested people about how certain bills will operate once they become law. But, at the end of it all, you can never be certain a lot of the time precisely how something will operate once it becomes law—how adequately it will be enforced, whether it will operate in the way it was intended or whether there will be unforeseen consequences, positive or negative. It is only after having a review after a period of time that you can get a sense of whether or not it has turned out the way it was planned and whether further changes are desirable.

That is the benefit of these sorts of reviews. That is why the Democrats have many times moved amendments to require a review of legislation. Indeed, I note that, in addition to the legislative requirement, this review included the operation of the act, the extent to which the policy objectives of the act remain valid and whether the provisions of the act remain appropriate for the achievement of those policy objectives. The government actually took advantage of the fact that the review was happening to request some additional matters to be considered as

well, including the effectiveness of the overall operation of the act. So I guess the fact that the government has added extra bits into this independent review is an indication that it sees some value in the process as well, having been encouraged or cajoled to accept the idea by the Senate over six years ago.

Because of a desire to read it further, I will speak to it again another time but I think it is worth noting these things. Amendments being passed and agreed to by the Senate and things occurring down the track is all part of the continuity of that process. To enable me to be able to speak to it later once I have had a bit more of a read of it, I would like to seek leave to continue my remarks.

Leave granted; debate adjourned.

#### **Roads: Roads to Recovery Program**

**Senator SANDY MACDONALD** (New South Wales) (6.58 p.m.)—I move:

That the Senate take note of the document.

The Roads to Recovery program has been one of the coalition government's success stories. It is a program that has been applauded by communities, local councils and all levels of government Australia wide. The program began in 2001 and was promoted by the Deputy Prime Minister, John Anderson. While the program provides funding to all local government areas across Australia, it is particularly useful to rural and regional based councils, where good roads are vital for a community's social and economic wellbeing. It comes in addition to the financial assistance grants from the Australian government to local councils. Every mayor or councillor I have spoken to has asked me to relay to the government just how important the Roads to Recovery program is to their local community. Very often, you can see signs showing that good works are being done by it.

It is a very good program because it delivers funding directly to local councils to fix local roads, and this means councils have access to extra funding to undertake road-works that would not previously have been able to be started. That applies particularly to a lot of bridges which probably work but need to be repaired. It is a good program. There is never enough money for roads, of course, but this is a start.

Because of the success of the program, the Australian government has decided to extend it. It was to finish in 2004-05. The commitment was made last year to extend it for an extra four years at an additional cost of \$1.2 billion. As I understand it, the new program will be incorporated in the AusLink commitment—the integrated land transport and rail commitment that our government made last year—which amounts to around \$10 billion worth of new expenditure on land transport and rail over the next few years.

Under the ongoing Roads to Recovery commitment, the government will provide local councils with around \$300 million a year. Of this, \$200 million will be allocated by a formula, as at present, for their local roads and \$100 million will be available for councils to undertake land transport infrastructure projects of regional importance. This is a change from the original four-year proposal. This funding might be, for example, for a road that needs to be upgraded to improve tourism or industry development opportunities. It is a more integrated approach from the Australian federal government to road and rail transport and it lies very much within the sentiment and aims of the AusLink proposal.

The government has also decided to discontinue the Fuel Sales Grants Scheme, which provides grants to fuel retailers of between 1c and 3c per litre of fuel sold outside metropolitan areas. This is another scheme

that was working very well and the savings from the wind-up of this program will be put back into the local transport infrastructure. The Australian government's commitment from 2006 is for around \$265 million a year to improve transport infrastructure in rural and regional Australia as part of the AusLink commitment of \$10 billion worth of new spending.

This is a very good scheme. It allows the Australian government to make a commitment to road funding in line with its agreed responsibility for funding roads, which has been developed through cooperative federalism over the years. It is in line with the national highways program, which we fund; the Roads of National Importance program, which we fund in cooperation with the states; the national Black Spot program, of which I am one of the consultative chairmen in New South Wales; and Roads to Recovery. They are areas of responsibility which have been taken on by the Australian government over the years. They are examples of good economic management, providing an opportunity for good policy—if you manage the economy and balance the books well then you can spend money on things that need it. Roads are certainly a perfect example.

Question agreed to.

#### **International Covenant on Civil and Political Rights**

#### **Optional Protocol to the International Covenant on Civil and Political Rights**

**Senator BARTLETT** (Queensland) (7.04 p.m.)—I move:

That the Senate take note of the documents.

These documents are communications under the Optional Protocol to the International Covenant on Civil and Political Rights. Basically they notify the Australian parliament of communications under that covenant on human rights from people in Australia who



have a grievance about Australia not meeting its obligations. The Australian government has long been a signatory to the protocol under the covenant, and it is worth drawing attention to these—not to speak about the specifics of the cases that these relate to but to draw attention to the fact that there is no clear protection under law in Australia, in the Migration Act or elsewhere, specifically applying the Covenant on Civil and Political Rights or indeed the convention against torture.

The government's consistent response has been that our obligations under these treaties are taken into account by the process of ministerial discretion under the Migration Act and that when the minister makes a determination he or she does so taking into account those obligations under the treaties against torture and on other human rights. The trouble is, firstly, that there is no legal requirement for the minister to do so—they do not have to; they just say they do. Secondly, there is no way of independently assessing whether or not they actually do. Thirdly, there is no legal obligation for the minister to even consider a request for ministerial intervention in the first place. It is a non-compellable power, which means you cannot compel the minister to use it and it is not appealable, so, if you think they have applied guidelines wrongly, you cannot do anything about it. I suggest that this is not an adequate protection to ensure that those rights are upheld. That is not a criticism of the current government or minister—although obviously I can make those criticisms and I have in the past—it is a fundamental deficiency in the law. Whoever was in government, that total lack of accountability and transparency would apply.

Two of these communications concern Bangladeshis and one concerns a Pakistani. These people have been in detention in Nauru and Papua New Guinea since October

2001—3½ years ago. Most of that time has been spent in Nauru. There are allegations that—without going into the detail of the individual cases—by virtue of their detention and of what would happen to them if they were returned forcibly to either Pakistan or Bangladesh, it would cause a breach of the International Covenant on Civil and Political Rights. I am not making a judgment about whether it would or would not; all I am saying is that there is no mechanism under Australian law for those obligations to be required to be upheld.

The other communication relates to a Tamil mother and son from Sri Lanka who have been in Australia since December 1995. They have applied unsuccessfully for protection visas and have been unsuccessful in requests for ministerial intervention. Again, I make no comment on their case or whether those decisions are ones I would agree with, but they are also alleging that they would be at risk of mistreatment on the grounds of torture and cruel, inhumane or degrading treatment or punishment if they were returned. I am not saying this would or would not happen; I am saying there is no mechanism under Australian law under the Migration Act for that right to be tested and upheld. It is solely in the hands of the minister. Obviously, in part it comes under the refugee convention, but it is much broader than the refugee convention and thus is not covered in the Migration Act.

So the frequent statements that people's cases have been properly assessed and they have been found not to be a refugee, therefore they are safe, are simply not correct. They may not be a refugee, but they may still have genuine grounds of breach of rights in being at risk of torture for reasons other than those in the refugee convention. They cannot get those rights upheld via any process in this country other than appealing to the minister, who is under no obligation to even look



at that appeal, let alone assess it against those criteria. That is a blatant flaw, and it is about time it was addressed.

Question agreed to.

#### ADJOURNMENT

**The ACTING DEPUTY PRESIDENT (Senator Ferguson)**—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

#### Australian Maritime College

**Senator WATSON (Tasmania) (7.09 p.m.)**—I rise this evening to comment on the importance of the Australian Maritime College. It is particularly important to my home city of Launceston and the worldwide maritime industry, and it has contributed to the social capital of northern Tasmania. This has only been possible through a partnership with the federal government. I wish to acknowledge the great contribution that has been made by the far-sightedness of its board, its head, its teaching staff and students past and present.

The Maritime College was established in Launceston in 1978 with the first students commencing in 1980. Since that time the number of students has continued to rise. In 2004 there were 1,900 students enrolled in award courses and 1,759 students undertaking short courses, mainly through the AMC's commercial arm, called AMC Search. That was a total of almost 4,000 people studying last year at the college.

The direct economic benefits for Launceston and Tasmania are quite significant and are in excess of \$20 million annually but the total economic benefit is estimated at greater than \$50 million. That equates to more than 500 jobs, both directly and indirectly. The high proportion of international students has provided a strong multicultural influence in our community. The

college contributes significantly, as I said earlier, to the social capital of Tasmania. A partnership between the Maritime College and the West Tamar Council has built a swimming pool at the Beauty Point campus which is available for students and, I point out, for the local community. It has been in use since the beginning of 2004, so there is great community interaction and social responsibility.

The college has a fine international profile and reputation which has continued to grow over the years. It hosts a number of visiting academics from overseas—for example, a professor from Kobe University is working on simulation research. Staff have delivered courses in places like Taiwan, Japan and Thailand. It has a strong relationship with the National Kaohsiung Institute of Marine Technology in Taiwan, which saw a number of their students attend a summer school at the Maritime College.

The Tokyo University of Fisheries' training ship visited the AMC in 2003 and a joint research program in fish behaviour has been initiated. There is also a partnership with the Shanghai Maritime University, where the AMC will provide degree courses in China. The first students enrolled last year and will commence their studies in February this year. The college received accreditation from the Royal Yachting Association in the United Kingdom to offer their superyacht course in Australia. These are internationally recognised qualifications needed by prospective superyacht crew members.

As a measure of its international reputation, the AMC is now the Senior Vice-Chair of the International Association of Maritime Universities and it hosted the general assembly in November 2004. At that time, the principal, Dr Neil Otway, became the chairperson of this organisation and will hold office for the next 12 months.

It is important to acknowledge that the Australian government has continued to provide very significant support to the Maritime College. In fact, funding of \$7 million was announced in December 2003 to provide high-speed, high-capacity internet links between Tasmania and the mainland to facilitate improved education and research. That has continued to provide students with excellent facilities and contacts. The number of AMC programs offered in a flexible mode has increased significantly. To facilitate further developments, educational software—WebCT—was acquired, which has been embraced by academic staff for a number of their courses.

The government in its last budget in 2004 announced a further \$9.7 million for the college over the next seven years to support a new operation at Point Nepean in Victoria and \$4.5 million was made available for the establishment of the Australian Maritime Hydrodynamics Research Centre in Launceston. This project has completed its first full year very successfully. It has met its targets to date and is well placed to achieve its vision of becoming a world-class centre of excellence for experimental and theoretical hydrodynamic research.

Perhaps the most exciting area for the college lies in its commercial partnerships. Its research arm, AMC Search, continues to have success. In fact, it received an outstanding contractor performance award from the Department of Defence for its Pacific patrol boat courses, a great achievement for such a small company. Presentations on AMC Search's capabilities were made in a number of locations around Australia, including Melbourne, Canberra, Fremantle, Brisbane and the Gold Coast.

I point out to the Senate that this college continues to be an innovative organisation, providing high-level teaching, research and

consulting services to the Australian and international maritime industries. I believe it has a great future and is of great benefit to the state. I commend the federal government for its support for this outstanding college.

#### **Employment: Work for the Dole**

**Senator TCHEEN (Victoria) (7.17 p.m.)—**

Last night I had to discontinue my remarks about an outstanding Work for the Dole project in Melbourne, and tonight I would like to continue those remarks. Last night I reported to the Senate that that particular project was remarkable for two reasons. The first is the general reason that it is a Work for the Dole project and is part of a program which has been an unqualified success in terms of community building. The second remarkable reason is that that particular project was sponsored by the Islamic community of Melbourne and it is about achievement in the Muslim community in Victoria.

The objective of that Work for the Dole project was to design and produce a booklet containing information on the Muslim community and Muslim achievements, including a comprehensive directory of Muslim businesses in Victoria. The project provided participants with experience in undertaking research, conducting interviews, collating and compiling data and utilising computer skills to design and produce that booklet. I again thank the Senate for giving me leave last night to table a copy of the booklet for the record.

It is important that this project involved the Muslim community, because the 2001 census recorded that Australia's Muslim community totalled 281,780—92,735 of whom, about one in three, live in my home state of Victoria. The Muslim community is a high achieving community: 45 per cent of the population have attained VCE or equivalent level education, 34 per cent are university graduates and 10 per cent hold post-

graduate qualifications. This compares with 31 per cent of Victoria's general population with a university degree and only five per cent with postgraduate degrees.

However, education achievements have not translated into job market successes. The unemployment rate for Victoria's Muslims is said to be about 2½ times higher than for non-Muslims. Discrimination is no doubt one of the causes of this discrepancy. Discrimination on an individual basis is something that we can deal with as it comes up according to the laws which are already in place. I am confident that this discrimination will be eradicated—and soon. However, another problem for the Muslim community may be a lack of confidence in the security of their place in society, both for those individuals and for the group. This is a problem which minorities in a diverse society are often plagued with. This particular Work for the Dole project, sponsored by the Islamic Council and called 'Celebrating Muslim achievements in Melbourne', tackles this issue front on. In celebrating Muslim accomplishments, and there are many, this project helps to celebrate not only the determination and resourcefulness of these Muslim Australians but also the Australian society that, to quote from the booklet, 'provides great opportunity for those who aim to succeed, despite colour, race or religion'.

While Islam is no stranger to Australia—archaeological records indicate that Indonesian fishermen have been visiting Northern Australia since the 1600s—the Muslim presence was recognised by the European settlers, only it began with the recruitment of the so-called Afghan cameleers whose contribution to the exploration and settlement of Australia's vast interior has so far received scant recognition but certainly cannot be discounted. In Coolgardie in 1898, for example, there was a Muslim community some 300 strong with two mosques. However, in an

echo of a description common to the Chinese community on the goldfields in eastern Australia and one of the strongest indications and sources of both misunderstanding and potential discrimination, there was not one woman amongst this 300 strong Muslim community.

Muslim migrants were actively excluded from Australia after Federation—not unexpectedly, given the prevalent political and social attitudes of the time—and for the next half-century. After World War II, the door began to open for Muslim migrants, led by Lebanese Christians and white Muslims from Bosnia, Cyprus and other Balkan countries, in very much the same way that the Colombo Plan sponsored students and opened the way for English-speaking Asians. In 1967 an agreement with Turkey meant that Turkish migrants were able to come to Australia as assisted migrants, and in the seventies civil wars in Lebanon and Cyprus led to healthier growth of the Muslim community in Australia.

Within the broad confines of Australian multiculturalism, incidents of actual and active discrimination experienced by the Muslim community have been relatively rare but not non-existent, and the Muslim community continues to be probably one of the most misunderstood minority communities in Australia. According to a report prepared by the Centre for Cultural Research, University of Western Sydney, for the Human Rights and Equal Opportunity Commission, called *Living with racism: the experience and reporting by Arab and Muslim Australians of discrimination, abuse and violence since 11 September 2001*, there is evidence of a noticeable increase both at a personal level and at a community level since 9-11.

While it seems to me that this finding must be considered less than unexpected, I do not believe that we should give too much emphasis to this aspect of the report. For

one, both the quality and the comprehensiveness of the report were open to question. I should like to come back to this later, if I have time. For now, it is more important that we focus on the question of the best way forward. The best way, the only real way, to eliminate the evil of discrimination in society is to confront it head on, with confidence in our own values and in our neighbours' goodwill. The Islamic Council of Victoria has certainly done that by sponsoring the Work for the Dole project.

I would like to pay tribute to the Islamic Council of Victoria, which is the umbrella organisation of Islamic societies in Victoria and their representative body to the Australian government and the Australian community at large. The ICV is a member of the Australian Federation of Islamic Councils, the umbrella organisation of all Islamic Councils in Australia. The Islamic Council of Victoria was established in the late sixties, with a mission to represent the Muslim community and promote mutual understanding, harmony and cooperation among the Muslim community, among communities and groups in Australia, and among Australians. This is a laudable mission. The leadership and members of the ICV, which has been committed to it for 40 years, should indeed be commended and congratulated not only on its intention but also on its success.

Action is always more important than rhetoric, and ICV's participation in the Work for the Dole program is another example of this. It also should be noted that the day after September 11, the ICV courageously issued a public statement saying, 'The killing of innocent people is a crime against God and against humanity,' and that there should be no sympathy for such atrocities.

So I take great pleasure in commending and congratulating the ICV for its many contributions to our society, especially the cur-

rent chair of the council, Mr Yasser Soliman, and ICV's representative at the 21 July 2004 Work for the Dole graduation celebration, the honorary treasurer of ICV, Mr Rohan Gould—one would think a very un-Muslim name—who is an excellent representative of the Australian Muslim community. I also thank Mr Bilal Cleland, author of the book *Muslims in Australia—A Brief History*, published in 2002, who kindly informed me about this important group of fellow Australians.

Today being the first day of the year in the lunar calendar, a holiday celebrated by more than a quarter of the world's population in East and South-East Asia, I take this opportunity to wish all my Senate colleagues and all the officers of the Senate a healthy and prosperous Year of the Rooster.

#### **Environment: Conservation**

**Senator BARTLETT (Queensland) (7.27 p.m.)**—I would like to speak tonight about an activity I was involved in last week in my home state of Queensland. I was fortunate to be able to visit Mon Repos Beach at Bargara, near Bundaberg in Queensland. Bundaberg is probably best known for its sugar and for its rum, but Mon Repos is certainly becoming more widely known for its beach, a significant turtle nesting site. I was even more fortunate to be able to visit with the assistance and input of Dr Col Limpus. He is a local of the region and, over 30 years ago, he became slightly involved in what was then perceived to be a small conservation project involving turtles at the beach.

All this time later, Dr Limpus runs what I see as one of the most positive examples of a community based conservation program that you could possibly manage. It involves a lot of people locally and people who come year after year as volunteers. They stay on-site in tents for a week or two and go out at night during the breeding season to count all the

turtles that come in to lay eggs. They count all the hatchlings that come out of those nests a month or two later. They have amassed an enormous amount of data over more than 30 years, which has absolutely enormous value and global implications. It is a wonderful example of a whole group of people working together. By virtue of the combination of the scientific benefit of what they are doing, the wonder of the experience and, I think, the community nature of it, it has kept going where many other environmental research projects have flourished for a few years and then fallen over. They did not succeed, but I think it is having that community base that has helped this one do so well. That is not to say that funding does not help along the way, and certainly more can be done in that area, which I will talk about in a minute. I was able to go with Dr Limpus and others out onto the beach—it is fairly late in the season now—to see some of the other volunteers who were walking along the beach checking out various nesting sites and seeing if eggs had hatched yet. We were able to see a group of hatchlings.

We also saw another benefit of the project, which is the tourists who go to the local interpretation centre to get an explanation of the ecological significance and situation facing turtle populations. A group was led down to the beach to witness groups of tiny green turtle hatchlings digging their way out of the sand into the open air and running down the beach into the ocean. Those tourists came down whilst I was on the beach and I was able to ask, through a quick show of hands, who was from overseas. There were probably about 60 people there and about 50 per cent of them had come from overseas. As part of their visit to Australia they had chosen to go to this part of Queensland near Bundaberg to see this unique experience.

Having spoken about the economic benefits that tourism has brought to the region, I

should also say it is a perfect example of where the consumptive use of wildlife—a nice, easy, quick fix; grab it while it is there; hunt, kill, grab the eggs, use the shells and meat traditional approach—has been shown to be not only less sustainable environmentally but also nowhere near as profitable. The studies were done some time ago, before this tourist component really developed, and showed that the tourist value was over 10 times the value of even an unsustainable level of turtle and egg harvest, had that continued. That is just one example, but it is a good example of benefit to the community and an approach that is far better for the environment. There are still significant threats to the turtle population and they need to be acknowledged. It is not just a matter of protecting the turtle population because it gives us a nice warm feeling; it is of economic benefit as well.

In this program that I mentioned, run by Dr Colin Limpus, 20 or 30 years ago they used to tag those hatchlings before they got to the beach. I understand around 250,000 hatchlings were tagged 25 or so years ago over a period of a few years. So far, four tagged and identified adults have returned. There are plenty of other things that can happen: tags can fall off and there can be predation and death in the meantime. It is also a very slow breeding species that takes a while to mature. But they do return, if not necessarily to the same beach then to the same region. It is certainly a worrying statistic that may be sending some early warning signs.

In addition, Dr Limpus spoke about a site that he has been visiting for a long time at Raine Island—I have not heard of it, but that is probably because it is uninhabited. It lies right up in the northern reaches of the outer Barrier Reef Marine Park, off the edge of the main reef. It is also the largest green turtle nesting site in Australia. It was discovered

almost by accident nine years ago. Despite turtles still going there and laying in huge numbers—almost a carpet of mature turtles nesting and laying eggs at the right time of year—the number of hatchlings from that site has been virtually nothing for nine years because of a change to the water table on the island, or a drop in the sand level, whichever way you want to talk about it. The sand depth has decreased so that now the turtles lay their eggs in water and they do not mature and hatch. When you think of the massive loss of juvenile turtles that that represents, it is certainly of great concern as to what it might mean to the overall viability of the population 10 or 20 years down the track. Of course by that time it may be too late. There are a few theories about why the sand level has dropped. It is possibly because a jetty was built on the island by guano miners decades ago, changing the flow of the water and eventually causing the sand level to drop. The cause is not clear.

The problem is that the funding used to pay for research on the island has wound up. It actually wound up the day after I was at Mon Repos. That clearly presents a problem as to whether that research will continue to happen as thoroughly as possible and whether the resources will be there to enable rehabilitation for an island in a very remote area. It should also be mentioned that those turtles are not just there for tourists to come and look at when they lay their eggs; they are a significant species for Indigenous people in Far North Queensland and in the Torres Strait, and for people in parts of Papua New Guinea. The biggest component of the death rate of turtles is Indigenous harvesting and harvesting by people in Papua New Guinea, followed by commercial fishing.

Over a number of years, we have seen through the benefits of research a significant drop in the by-catch of turtles in many trawlers. That is very positive. We are seeing

more attempts to work with the fishing industry. While I was there, I saw a turtle that had been killed by long-line fishing and that had been brought in. That might sound bad, but what it shows is that the industry no longer just throws it overboard and hopes nobody notices; they are bringing it in to get the data and find out what killed it so they can continue to minimise the catch. That is certainly a positive sign, amongst others, of recognition of the importance of trying to minimise the impact.

There are plenty of challenges and I hope this government does more to fund the recovery plan. It is one thing to develop a recovery plan but, unless you fund it, it is just a nice piece of paper. To protect the critical habitats that are still not listed under the Environment Protection and Biodiversity Conservation Act, the federal government can do more to save the environment and to generate further economic benefits to those regions of Queensland such as Mon Repos Beach and the areas near Bundaberg. It is a win-win situation but it has to have the commitment of government at state and federal level, including the financial investment to make it worth while. *(Time expired)*

#### Water Safety

**Senator FIFIELD** (Victoria) (7.37 p.m.)—I have been provoked to speak in the adjournment debate as a result of the outrageous way that the former shadow sports minister Senator Lundy has misled the Senate. But I must confess I am a little hesitant to do so because I am concerned I might incur the wrath of Senator Kemp, who has always been extremely fond of Senator Lundy. He has often said that if he had to pick anyone in this chamber to shadow him he would pick Senator Lundy, so I am just a little wary—but I will continue regardless.

Senator Lundy has misled the Senate as to the government's policy on and commitment

to water safety in this country. Senator Lundy said in this chamber today:

... the reality is the government has provided no additional funding to support and promote programs which could save Australians. The \$10 million over four years promised in the 2004 federal election campaign for water and alpine safety initiatives merely maintains the current annual appropriation for these programs.

She continued:

The absence of any real increase in the funding to reduce the number of fatalities that occur each year demonstrates the Howard government's ... real commitment to water safety in this country.

It may seem a small thing but I think to misrepresent the commitment that the government has to this important group of volunteers is something that should not go uncorrected. Little wonder, I think, that Senator Lundy was replaced as shadow sports minister. The wonder is that she continues on Labor's front bench.

Let me put the record straight. The coalition's sports policy released at the last election, Building Australian Communities through Sport, could not be clearer on this issue, and I should take the opportunity to congratulate Senator Kemp on a first-class sports policy. Let me quote directly from page 6 of the sports policy:

A re-elected Coalition Government will boost current levels of funding for water, and snow, safety initiatives by \$10 million over the next four years.

This will include \$6 million to support the development and implementation of national Surf Lifesaving, Royal Lifesaving, Austswim and Australian Ski Patrol programmes.

This support will enable these organisations to increase the effort to reduce death and injury caused by drowning and near drowning.

I will continue because I think it is important to read from the policy to set the record straight. It says:

\$4 million over four years will be provided to implement high priority projects ... identified in the revised National Water Safety Plan, due to be released later this year, and to deliver targeted innovative water safety campaigns aimed at reducing drowning in high risk groups, such as the 0-5 age group and young adult males.

... ..

Funding for these new initiatives will bring the Coalition's total commitment to water safety to \$21 million over the next four years.

I should take a moment to acknowledge the wonderful work of volunteers in the water safety area, people like—if I might indulge—Dr Scott Fifield of the Mount Martha beach lifesaving patrol.

The document goes on to record the government's commitment to the celebration of the centenary of surf-lifesaving in 2007. The crunch line in the policy states:

Funding for these new initiatives will bring the Coalition's total commitment to water safety to \$21 million over the next four years.

It is clear, it is in black and white and it is in the government's policy that we are providing an additional \$10 million for water and alpine safety initiatives. Senator Lundy falsely claims that the \$10 million commitment in the coalition's sport policy merely maintains current annual appropriations. She is plain wrong. This is new money and clearly tops up existing funding.

Again, for the record, in 2003-04 funding for water and alpine safety was \$2.473 million. In 2004-05 the figure will be closer to \$5 million as a result of the government's commitment. Senator Kemp has already written to Surf Life Saving, the Royal Life Saving Society, AUSTSWIM and the Australian Ski Patrol Association to advise them of this additional funding. It is extremely disappointing that this policy area has been misrepresented. Under Labor's policy, confirmed by Senator Lundy today, there is a commitment to provide only \$2.2 million,



which is well short of the government's commitment—it is about 20 per cent of the government's commitment.

It is disappointing that this has happened. It is no surprise though—Labor in government has an interesting track record in sports. We well remember Ros Kelly and the sports rorts affair. Labor's two main contributions to the sports portfolio have been to try and build a four-lane freeway through the AIS and to make outrageous allegations about shooting galleries in the AIS, which did not exist. It is disappointing that sport is sought to be used for political advantage. On this side of the Senate, we will not do that, and we hope not to see any further attempts to do so from senators opposite.

**Senate adjourned at 7.43 p.m.**

## DOCUMENTS

### Tabling

The following government documents were tabled:

*Air Passenger Ticket Levy (Collection) Act 2001*—Report for 1 April 2003 to 31 March 2004.

Australian Broadcasting Authority—Online content co-regulatory scheme—Reports for the periods—

July to December 2003.

January to June 2004.

*National Environment Protection Measures (Implementation) Act 1998*—Independent review by Baker and McKenzie.

*Roads to Recovery Act 2000*—Roads to recovery programme—Report for 2003-04 on the operation of the Act.

United Nations—Optional Protocol to the International Covenant on Civil and Political Rights—Human Rights Committee—Communications—

No. 954/2000—Decision.

No. 1307/2004—Outline.

No. 1317/2004—Outline.

No. 1318/2004—Outline.

No. 1319/2004—Outline.

### Tabling

The following documents were tabled by the Clerk:

*Made prior to the commencement of the Legislative Instruments Act 2003 on 1 January 2005:*

National Health and Medical Research Council Act—Ethical guidelines on the use of assisted reproductive technology in clinical practice and research, dated September 2004.

Remuneration Tribunal Act—Determination—

2004/24: Remuneration and Allowances for Holders of Public Office.

2004/25: Remuneration and Allowances for Holders of Public Office.

*Made following the commencement of the Legislative Instruments Act 2003 on 1 January 2005 [Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]:*

Appropriation Act (No. 2) 2004-2005—Advance to the Finance Minister—Determination No. 3 of 2004-2005 [F2005L00257]\*.

Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—

AD/B737/125 Amdt 2—Centre Wing Fuel Tank Float Switch Wiring [F2005L00182]\*.

AD/P68/53—Seat Backrest Quick Release Pin [F2005L00181]\*.

Broadcasting Services Act—

Variation to Licence Area Plan for Bega Radio—No. 1 of 2005 [F2005L00165]\*.

Variation to Licence Area Plan for Waragul Radio—No. 1 of 2005 [F2005L00166]\*.

## Customs Act—Tariff Concession Orders—

Tariff Concession Instrument No.  
0411761 [F2005L00183]\*.

Tariff Concession Instrument No.  
0411940 [F2005L00184]\*.

Tariff Concession Instrument No.  
0412029 [F2005L00185]\*.

Product Rulings PR 2005/5-PR 2005/9.

Telecommunications (Numbering Charges)  
Act—

Telecommunications (Date of Imposi-  
tion of Charge) Determination 2005  
[F2005L00173]\*.

Telecommunications (Exemption from  
Annual Charge) Determination 2005  
[F2005L00172]\*.

\* Explanatory statement tabled with legisla-  
tive instrument.

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**QUESTIONS ON NOTICE**

The following answers to questions were circulated:

**Defence: Exercises****(Question No. 26)**

**Senator Allison** asked the Minister for Defence, upon notice, on 16 November 2004:

With reference to the answer to question on notice no. 3097 regarding use of live munitions in military exercises and the effects on the marine environment:

- (1) Will the Minister provide a copy of the environmental management plan and environmental impact assessment for activities in the Shoalwater Bay area.
- (2) With reference to the answer to part (5) of question on notice no. 3097: (a) would foreign armed forces be required to refer for assessment any nuclear actions that may have a significant impact on matters of national environmental significance; and (b) do foreign or Australian armed forces have plans to undertake any activities which may constitute nuclear actions in operational exercises within Australia.

**Senator Hill**—The answer to the honourable senator's question is as follows:

- (1) Yes, this information has been forwarded separately to your office.
- (2) (a) Yes. (b) No.

**Taxation: Charitable Institutions****(Question No. 52)**

**Senator Greig** asked the Minister for Revenue and Assistant Treasurer, upon notice, on 17 November 2004:

With reference to a recent application by Open Doors Youth Service Inc. to the Australian Taxation Office for public benevolent institution and deductible gift recipient status, which was rejected on the grounds that the organisation, a support service for lesbian, gay, bisexual and transgender young people, did not satisfy the requirements of a benevolent institution:

- (1) Does the Minister consider that the conditions or misfortunes Open Doors is seeking to relieve, that is, suffering, distress, destitution, homelessness, suicide risk, disadvantage, discrimination, and isolation, which it claims occur as a direct result of homophobia, are such as to arouse pity or compassion in the community.
- (2) What criteria does the Australian Taxation Office use to determine that a condition or misfortune arouses pity or compassion in the community.
- (3) Does the Minister consider the experience of discrimination and homophobia experienced by many young lesbian, gay, bisexual and transgender people to be part of the emotional stress and pain encountered in ordinary human experience.
- (4) What balance between direct benevolent relief and other purposes and activities must an organisation achieve to satisfy the test that it is predominantly for benevolent relief.
- (5) Given that the Australian Taxation Office has advised that 'one may readily accept that an institution with an independent object of fostering the cultural values of a particular group would not be a public benevolent institution': (a) what constitutes an 'independent object'; and (b) in instances where an organisation's main objectives relate to benevolent relief, but contain additional objectives that refer to fostering of cultural values, how does the Australian Taxation Office determine

those other objectives to be of such significant weight as to indicate that the dominant purpose of the organisation is not to provide benevolent relief.

- (6) Does the Minister acknowledge that in certain circumstances, an individual's experience of poverty, sickness, suffering, distress, misfortune, disability or helplessness may be directly relieved through the provision of community education or services that foster values and, if so, that such activity would then constitute benevolent relief.

**Senator Coonan**—As this question deals with matters that are the responsibility of the Australian Taxation Office, I have asked the Commissioner for advice. The advice in relation to the honourable senator's question is as follows:

- (1) to (6) The secrecy provisions of the tax laws prevent the disclosure of information relating to the taxation affairs of a particular organisation to a third party. Any organisation that is dissatisfied with a decision made by the Tax Office not to endorse it as a public benevolent institution (PBI) is entitled to have the decision reviewed.

On 4 June 2003 the Tax Office issued public ruling TR 2003/5 which discusses public benevolent institutions. The ruling states that a public benevolent institution (PBI) is a non-profit institution organised for the direct relief of such poverty, sickness, suffering, distress, misfortune, disability, destitution, or helplessness as arouses compassion in the community. The ruling also states that it is not sufficient that an organisation's operations be directed towards categories of people who could be in need of relief. Rather it must be for the relief of suffering and distress experienced by those people.

The ruling goes on to say that the organisation must be at least predominantly for the direct relief of such poverty, sickness, suffering, distress, misfortune, disability, destitution, or helplessness.

TR 2003/5 is based on a collection of current judicial knowledge that has developed from many court decisions over a very considerable time frame. When deciding whether an organisation is predominantly for the provision of benevolent relief it is a matter of fact and degree. It is an objective question which will involve the weighing of all relevant factors and both the organisation's constitution and its day-to-day activities are relevant.

As it is the character and purpose of the organisation that must be ascertained, a solely quantitative measurement would be inadequate. If an organisation has two or more objectives that are roughly equal and only one involves the provision of benevolent relief, then the organisation could not be accepted as a public benevolent institution.

#### **Telecommunications: Mobile Phone Towers**

##### **(Question No. 70)**

**Senator Brown** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 18 November 2004:

- (1) Does the Government support Telstra's decision to appeal against the decision of a democratically elected local government which refused to allow the construction of a telecommunications tower at Bindaree Road; if so, does the Government believe that Telstra's agenda should override the wishes of a local community.
- (2) Does the Government consider that Telstra's decision to refuse to discuss alternative sites at a mediation meeting that it facilitated is reasonable.
- (3) What regulations are in place concerning the placing of telecommunications towers in close proximity to residences.
- (4) What regulations are in place to prevent Telstra constructing telecommunications towers in existing electrical transmission corridors.

- (5) Taking into account the precautionary principle, can the Government guarantee that no adverse human health effects result from living in close proximity to telecommunications towers; if so, why has the Government allocated further funding for on-going research into potential health risks from electro-magnetic emissions devices and phone towers.

**Senator Coonan**—The response is based in part on advice received from Telstra. The answer to the honourable senator's question is as follows:

- (1) The decision to appeal the decision by the West Tamar Council is a matter for Telstra.

Although Telstra remains partially Government-owned, it has been an independent corporation since 1991. Telstra's Board and management are responsible for the day to day running of the company's operations. The Government's role is to establish the legislative framework within which all telecommunications service providers (including Telstra) must operate. Consequently the Government is unable to intervene with respect to operational issues or disputes that arise from the conduct of Telstra's daily business.

Approvals for most telecommunications facilities, including the majority of mobile telecommunications towers, are dealt with by relevant State and Territory authorities, usually at the local level. Only in a limited number of circumstances are carriers immune from State and Territory laws, notably in the installation of 'low-impact facilities' – those that are essential to maintaining telecommunications networks, but are of low visual impact.

All carriers, including Telstra, must comply with the relevant State or Territory planning legislation, and are subject to the local planning processes.

State or Territory legislation may make provision for appeals against a Council decision.

- (2) The location of mobile phone towers, including the consideration of alternative sites is a commercial matter for Telstra to determine, consistent with the Tasmanian State planning legislation.

Telstra advised that a mediation conference was held with concerned residents on 26 February 2004. Telstra explained the sites it reviewed as options for the mobile phone tower and outlined the precautionary approach it used in selecting the Bindaree Road site as the best option for Telstra's facility. Telstra also listened to site suggestions put forward by others at the meeting, but said that these options did not meet the mobile coverage objectives for the site.

- (3) The Government's framework for the telecommunications sector seeks to achieve a reasonable balance between individual local and broader regional and national interests. Through its reform of the telecommunications sector, the Government has sought to encourage competition to give Australians greater access to a wide range of high quality, low cost telecommunications services. Approvals for the installation of most telecommunications facilities, however, are dealt with at the local level. In particular, State and Territory legislation covers the installation of mobile phone towers. This arrangement ensures that the rollout of modern telecommunications networks is encouraged, while taking into account individual communities' local concerns and interests.

It is impractical for the Government to legislate at a micro-level all telecommunications activities, both due to the technical nature of the industry and the cost. Encouraging good industry practice through self-regulatory mechanisms such as industry codes of practice and technical standards is an important strategy.

The Government has encouraged the telecommunications industry to develop and implement the Australian Communications Industry Forum (ACIF) Deployment of Radiocommunications Infrastructure Code (the Industry Code), that provides for additional consultation arrangements for low-impact facilities and some improved methods for addressing concerns about electromagnetic energy (EME) emission levels for all radiocommunication facilities installed under Commonwealth and State and Territory laws. The Industry Code requires carriers to have regard to 'community sensitive locations' such as residential areas when locating telecommunication facilities.

- (4) Placement of a telecommunications tower within the constraints of the relevant state planning legislation and the industry code, is a commercial matter for carriers.

Regulatory arrangements do not discourage carriers from installing their infrastructure on towers belonging to other carriers, or on public infrastructure such as electricity towers. Indeed, carriers are required to consider opportunities for co-locating new telecommunications facilities on any existing tower or public utility structure, and it is the Government's long-standing policy to encourage carriers to co-locate where possible.

- (5) The Government recognises there is some concern in the Australian community about the possibility of long-term effects on health of exposure to electromagnetic energy (EME) emissions used in mobile telephony. The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA), within the Health and Ageing portfolio, sets the standard for public occupational limits of exposure to radiofrequency emissions.

The ACA, in conjunction with ARPANSA, has recently launched an information package on EME and mobile phones. All the information in the package can be accessed through the website at <http://emr.aca.gov.au>.

The Government has provided \$4.5 million over four and a half years for the Radiofrequency Electromagnetic Energy (EME) Program. The EME Program supports research into and provides information to the public about health issues associated with mobile phones, mobile phone base stations, and other communications devices and equipment.

### **Communications: Casualties of Telstra**

#### **(Question No. 73)**

**Senator Brown** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 18 November 2004:

With reference to the statement to the Senate by the Environment, Communications, Information Technology and the Arts Legislation Committee on the Casualties of Telstra (COT) issues, which was tabled on 11 March 1999:

- (1) How much has been spent by Telstra in relation to the COT issues.
- (2) How much of this money has been spent on settlements with the original claimants.
- (3) (a) How many of the original claimants have reached a settlement with Telstra; and (b) how many have still to reach a settlement.
- (4) Has any settlement been reached between Telstra and each of the original complainants in relation to the communication problems which were the basis of the inquiry.

**Senator Coonan**—The answer to the honourable senator's question is as follows:

- (1) Telstra has advised that it paid the fees of the two arbitrators and of the financial and technical resource units assisting the arbitrators. Telstra has advised that it had a considerable number of internal staff engaged in responding to the various Freedom of Information Act requests and directions from the arbitrators that Telstra produce documents. Telstra also engaged the services of external solicitors and Deloitte Touche Tohmatsu to assist in the preparation of Telstra's defences. As the arbitrations occurred between 1994 and 1999, Telstra advises that it has been unable to estimate the amount expended on these various activities.
- (2) Telstra has advised that the claims of the sixteen COTs, including the 'original' COTs (Mrs Garms, Mrs Gillan, Mr Schorer and Mr Smith), were resolved by arbitrator's award or negotiated settlement; and the amounts of those awards and settlements are confidential to the parties. Telstra has advised that it is unable to disclose the amounts without the consent of the various COT claimants.

- (3) (a) and (b) Telstra has advised that all of the sixteen COT claims were resolved either by an arbitrator's award or negotiated settlement. One claimant, Valkobi Pty Ltd received an arbitrator's award in June 1996. In April 2003 Valkobi issued proceedings in the Victorian Supreme Court seeking damages or the setting aside of that award.
- (4) Telstra has advised that the basis of the claims by the COTs was financial loss suffered by them as a result of alleged deficiencies in their telephone service. Telstra advised that the arbitrator's awards and settlements were in respect of those claims.

#### **Superannuation: Compliance**

##### **(Question No. 74)**

**Senator Brown** asked the Minister representing the Treasurer, upon notice, on 18 November 2004:

With reference to the Australian Taxation Office (ATO) and the non-payment of superannuation contributions by small businesses: Why does the ATO not regularly and routinely monitor superannuation compliance in the same way that it monitors goods and services tax and provisional tax compliance.

**Senator Coonan**—As the question deals with matters administered by the Australian Taxation Office, I have asked the Commissioner of Taxation for advice. The advice in relation to the honourable senator's question is as follows:

The Commissioner's Compliance Program 2003-2004 outlined the significant programs being undertaken by the ATO to maintain high levels of employer compliance with superannuation guarantee obligations. This includes investigating all cases where employees notify the ATO that their employer had not paid superannuation.

#### **Superannuation: Contributions**

##### **(Question No. 80)**

**Senator Brown** asked the Minister representing the Treasurer, upon notice, on 18 November 2004:

With reference to the Australian Taxation Office and the non-payment of superannuation contributions by small businesses:

- (1) Why do employees have to wait until the October after the end of each financial year to find out whether or not their employer has made superannuation contributions.
- (2) Why can employees not opt to have their employer pay superannuation contributions monthly or quarterly, as this would give them the opportunity to take action in the case of non-payment before the bill becomes too large.

**Senator Coonan**—As the question deals with matters administered by the Australian Taxation Office, I have asked the Commissioner of Taxation for advice. The advice in relation to the honourable senator's question is as follows:

- (1) From 1 July 2003 employers have been required to report to their employees the amount of superannuation contributions made on their behalf within 30 days of the final contribution being made for all employees for that quarter. It is proposed to remove this reporting obligation from employers from 1 July 2005 as many employers report more frequently by including information pertaining to superannuation contributions on payslip advices.

The obligation to include superannuation information on pay slips is contained throughout various Australian workplace legislation as well as State and Federal awards. As a result of the widespread requirements to report superannuation contributions on payslips, combined with the requirement

for superannuation funds to report at least annually to their members on both employer and member contributions, it is unnecessary for employers to provide additional reporting.

- (2) From 1 July 2003, employers have been required to make at least quarterly superannuation contributions on behalf of their employees to a complying superannuation fund or retirement savings account. This obligation on employers is a minimum standard only. Employers are able to provide more frequent superannuation contributions on behalf of their employees. Additional employers may have to contribute superannuation on behalf of their employees on a more regular basis depending on the terms and conditions of a relevant industrial award or agreement.

### **Telstra: Directory Services**

#### **(Question No. 84)**

**Senator Brown** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 18 November 2004:

Given that: (a) according to the Yellow Pages section of the Sensis website, there are '14 million directories delivered free every year to virtually every home and business in Australia'; (b) in some cases, several directories are delivered to the one home or business; (c) on-line directories are available as an alternative to printed versions; (d) many directories are never used; and (e) each directory uses resources and energy for its production and delivery: Will the Government, as the majority shareholder in Telstra or through regulation, require Telstra, through its directories arm Sensis, to attempt to reduce the numbers of Yellow Pages directories circulated to those that are actually needed by the community.

**Senator Coonan**—The answer to the honourable senator's question is as follows:

(a) to (e) Telstra has advised that delivery of the Yellow Pages® print directories is driven by consumer, business and advertiser demand. While the Yellow Pages® OnLine site continues to grow in user numbers, consumers and businesses still rely on their Yellow Pages® print directories. Telstra believes the usage rate of the print directory and advertiser demand continues to support the current distribution model.

In most non-metropolitan areas around Australia, the Yellow Pages® directories are co-bound with the White Pages® directory. To ensure that excess copies are not delivered to those customers who receive multiple copies of the Yellow Pages®, the actual numbers of directories required is confirmed at the time of delivery.

Telstra further advises that Sensis Pty Ltd has a number of initiatives in place to reduce the environmental impact of its directories. These initiatives include the following:

- Reducing the amount and weight of paper used in directories.
- The paper currently used in Yellow Pages directories has between 40 and 85 per cent recycled content.
- Sensis complies with the National Packaging Covenant (NPC), a voluntary program under which signatories commit to reduce the environmental impacts associated with packaging.
- More than 90% of the Australian population have access to directory recycling services, most through kerbside and commercial paper recycling services. Information on recycling is contained in the front of directories. More than 67% of old directories were recycled by the Australian community in 2003.

Although Telstra is partly Government owned, it has been an independent corporation since 1991, and subject to the provisions of the Corporations Act 2001 and the Telstra Corporation Act 1999. Accordingly, Telstra's Board and Management are responsible for the day-to-day running of the company.



**Taxation: Mass Marketed Schemes****(Question No. 101)**

**Senator Webber** asked the Minister representing the Treasurer, upon notice, on 18 November 2004:

- (1) Is it correct that:
  - (a) on 18 January 1996, a Deputy Commissioner of the Australian Taxation Office (ATO), Mr J M Wheeler, determined in favour of a Queensland taxpayer who had been issued with an amended assessment for the tax year ending 30 June 1995 in relation to a tea tree project investment;
  - (b) in this determination, Mr Wheeler awarded the taxpayer a refund or credit of tax paid, interest and penalty; and
  - (c) on 6 December 1999, the same Queensland taxpayer was again issued with an amended assessment for the tax year ending 30 June 1995 in relation to the same tea tree project investment.
- (2) Why did the ATO renege on the determination of Mr Wheeler in relation to that investment.
- (3) Is it correct that the ATO is citing the decision in *Commissioner of Taxation v Sleight* (2004) FCAFC 94 as justification for action it has taken on agricultural projects structured in a similar way to those of Mr Sleight.
- (4) Given Mr Wheeler's determination, why did the ATO decide on 21 December 2000 not to allow Mr Sleight's objection to the amended assessment he received on 12 October 1999.

**Senator Coonan**—As the question deals with matters administered by the Australian Taxation Office, I have asked the Commissioner of Taxation for advice. The advice to the honourable senator's question is as follows:

- (1) (2) and (4) The Commissioner advises me that it is inconsistent with his responsibilities under the secrecy provisions of the tax law to provide specific taxpayer details.
- (3) It is the Commissioner's view that deductions claimed relating to mass marketed investment schemes are not allowable. This view has now been upheld by the courts in five cases.

**National Equine and Livestock Centre****(Question No. 142)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 22 November 2004:

- (1) On what date did the Minister attend the announcement of the \$6,000,000 grant for the National Equine and Livestock Centre project in Tamworth in the company of Senator Sandy Macdonald, Mr Greg Maguire and others.
- (2) What departmental resources were expended on the planning and execution of the announcement in Tamworth, including but not necessarily limited to:
  - (a) production and postage of invitations;
  - (b) logistics arrangements including the carriage and placement of 'Nationals' banners;
  - (c) departmental staff time including associated remuneration;
  - (d) departmental staff transport;
  - (e) production and distribution of material related to the announcement;
  - (f) refreshments; and

- (g) media monitoring.
- (3) Were any departmental staff present at the announcement; if so, which staff and what departmental function did they perform.
- (4) Was the unsuccessful National Party candidate for New England for the 2004 federal election invited to the announcement of the grant; if so, did he attend.
- (5) Was the Member for New England invited to the announcement of this grant; if so, did he attend; if not, why not.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) 21 September 2004
- (2) (a) – (g) Nil
- (3) No
- (4) Yes. The announcement was made during the election campaign.
- (5) No. the announcement was made during the election campaign.

#### **National Equine and Livestock Centre**

##### **(Question No. 143)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 22 November 2004:

With reference to all applications for public funding of the National Equine and Livestock Centre project in Tamworth (excluding the Regional Partnerships Programme application)

- (1) On what dates have applications been received.
- (2) For each application:
  - (a) under what departmental program was funding sought;
  - (b) what quantum of funding was sought;
  - (c) for what purpose was funding sought;
  - (d) (i) what independent assessment was instituted in respect to each application,
    - (ii) who undertook the independent assessment in each case,
    - (iii) over what time were the independent assessments made, and
    - (iv) what was the cost; and
  - (e) (i) what funding decision was made,
    - (ii) who made it, and
    - (iii) on what date was it made.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) 9 September 2000
- (2) (a) Regional Assistance Program
  - (b) \$33,000 (GST inclusive)
  - (c) Partially fund a feasibility study of the proposed Australian Equine and Livestock Centre.
  - (d) (i), (ii), (iii) and (iv) none
  - (e) (i) \$33,000 (GST inclusive)

(ii) The delegate was a Senior Executive Officer in the then Department of Employment and Workplace Relations.

(iii) The decision was announced by the Hon Tony Abbott MP, Minister for Employment Services on 12 December 2000.

### **Telecommunications: Mobile Phone Towers**

#### **(Question No. 145)**

**Senator Nettle** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 24 November 2004:

- (1) Is the Minister aware that 3G mobile phone towers are currently being built in suburban backyards, local parks and school grounds in Sydney, Melbourne, Brisbane, Adelaide and Perth.
- (2) Is the Minister aware of a January 2004 review by the British Advisory Group on Non-Ionising Radiation of the latest scientific developments in relation to mobile communications and health, which concluded that there is still a possibility of negative impacts on human health, particularly for children suffering extended exposure, and continued research is needed.
- (3) Given the ongoing concerns about the health impacts of radiation generated by 3G mobile telephone towers, why doesn't the Australian Communications Authority have any role in authorising where facilities are placed, monitoring their ongoing maintenance and upgrading, or determining whether these individual installations comply with low-impact criteria.
- (4) Given the ongoing concerns about the effects of radiation generated by 3G mobile telephone towers, and the fact that approximately 5000 new 3G telecommunications facilities are expected to be installed over the next 2 years, why does the Government believe that regulation of the construction and placing of towers can be left to a voluntary code drawn up by the industry itself, via the Australian Communications Industry Forum (ACIF).
- (5) If federal legislation allows 3G mobile phone towers to be installed without council approval, why does no federal body have the power to regulate the installation of these facilities.
- (6) Will the Minister investigate complaints of alleged breaches of the ACIF code with regard to the location and siting of 3G towers in and around schools, in local parks and in suburban backyards; if not, why not.
- (7) Are there any 3G mobile phone towers situated on Commonwealth controlled crown land; if so: (a) where; (b) how many 3G mobile phone towers are sited on Commonwealth controlled crown land; and (c) what is the approximate rent paid for the use of this land.
- (8) Does the Commonwealth have any guidelines or requirements for the placing of 3G towers on state government controlled crown land; if not, why not.
- (9) Does the Commonwealth Government have records of all 3G mobile phone towers in Australia that are situated within 300m of all places where children congregate for long periods.
- (10) Does the Commonwealth Government have records showing how many 3G mobile phone towers are situated within school grounds and in suburban backyards.
- (11) What has the Commonwealth Government done to alert school staff and parents of possible health impacts associated with 3G mobile phone towers in schools where towers are located within 300 metres of playgrounds and sports ovals.

**Senator Coonan**—The answer to the honourable senator's question is as follows:

- (1) I am aware that 3rd Generation (3G) mobile telecommunications towers are currently being installed throughout Australia. The location of these facilities is a commercial decision for carriers which must comply with the appropriate Commonwealth, State or Territory legislation.

- (2) I am aware of the conclusions of the UK independent Advisory Group on Non-Ionising Radiation report released in January 2004 titled 'Health effects from Radiofrequency Electromagnetic Fields'.

The report also concluded that the weight of evidence now available does not suggest that there are adverse health effects from exposures to radiofrequency fields below guideline levels.

In relation to mobile base stations, the report concluded: "Exposure levels from living near to mobile base stations are extremely low, and the overall evidence indicates that they are unlikely to pose a risk to health."

- (3) The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) has the primary role of advising the Government and providing information to the public, on issues related to radiation protection and developing standards for public occupational limits of exposure to radio frequency emissions. The Australian Communications Authority (ACA) has introduced regulations that make mandatory, for radiocommunications transmitters, the electromagnetic energy (EME) emissions limits set out in a standard developed by ARPANSA. The ACA is also required to conduct random audits to ensure licensees and suppliers are complying with the new EME regulations. Additionally, under the Australian Communications Industry Forum (ACIF) Deployment of Radiocommunications Infrastructure Code (the Industry Code), the public can request, at any time, that a carrier provide information on radiation levels around telecommunications facilities.

Local Councils have control under relevant State or local planning schemes for all telecommunications installations except those – generally low-impact facilities – covered by Schedule 3 to the Telecommunications Act 1997 (the Act). The location of these facilities is a commercial decision for carriers and is a matter between the carriers and the owner/occupier of the land on which the facility is installed.

Carriers seeking to install low-impact facilities are required to comply with rules of conduct set out in the Act and the Telecommunications Code of Practice 1997 (the Code). There are strict rules governing what can be installed, where new infrastructure can be installed, notification requirements and how carriers must behave. Compliance with the Act and the Code are standard carrier licence conditions. Alleged breaches of carrier licence conditions should be reported to the ACA.

Only a court can make a determinative ruling on the interpretation of the Telecommunications (Low-Impact Facilities) Determination 1997 (the Determination) and whether a facility complies with the legislation. This is because installations that are not low-impact facilities must comply with the relevant State and Territory planning legislation. The ACA cannot investigate a claim that a facility is not a low-impact facility because it has no jurisdiction to investigate breaches of State and Territory legislation.

- (4) The Government's framework for the telecommunications sector seeks to achieve a reasonable balance between individual local and broader regional and national interests. By facilitating competition, the Government has given Australians greater access to a wider range of high quality, low cost telecommunications services. Approvals for the installation of most telecommunications facilities, however, are dealt with at the local level. In particular, State and Territory legislation covers the installation of mobile phone towers.

In a limited number of circumstances carriers have immunity from State and Territory laws and can install telecommunications facilities under Commonwealth law. One of the main such instances relates to the installation of low-impact facilities covered by Schedule 3 to the Telecommunications Act 1997 (the Act). Carriers seeking to install low-impact facilities are required to comply with rules of conduct set out in the Act and the Telecommunications Code of Practice 1997 (the Code). There are strict rules governing what can be installed, where new infrastructure can be installed, notification requirements and how carriers must behave.

It is impractical for the Government to legislate every detail of the telecommunications industry, both due to the technical nature of the industry and the cost. Encouraging good industry practice through self-regulatory mechanisms such as industry codes of practice and technical standards is an important strategy.

To this end, the Government has encouraged the telecommunications industry to develop and implement the Australian Communications Industry Forum (ACIF) Deployment of Radiocommunications Infrastructure Code (the Industry Code), that provides for additional consultation arrangements and some improved methods for addressing concerns about electromagnetic energy (EME) emission levels for all radiocommunication facilities installed under Commonwealth and State and Territory laws. The Industry Code requires carriers to have regard to 'community sensitive locations' such as residential areas when locating telecommunication facilities.

The Industry Code has been registered by the ACA under the Act. The Industry Code is therefore mandatory and the Australian Communications Authority (ACA) can enforce the Industry Code and take action when carriers are in breach of the requirements under the Industry Code.

- (5) Local Councils have control under relevant State or local planning legislation for all telecommunications installations except those covered by Schedule 3 to the Telecommunications Act 1997 (the Act). Schedule 3 does not exempt the installation of mobile phone towers from State or local planning legislation.

The Australian Communications Authority (ACA) is responsible for regulating telecommunications and radiocommunications, including promoting industry self-regulation. The ACA is also responsible for ensuring that carriers comply with their licence conditions when installing low-impact facilities which include compliance with the Act and the Telecommunications Code of Practice 1997 (the Code) and the Australian Communications Industry Forum (ACIF) Deployment of Radiocommunications Infrastructure Code (the Industry Code).

- (6) The Australian Communications Authority (ACA), as the telecommunications regulator, has the authority to investigate breaches of the Australian Communications Industry Forum (ACIF) Deployment of Radiocommunications Infrastructure Code (the Industry Code) regardless of the location of the installation.

On 21 June 2004, the ACA warned both Telstra and Hutchison 3G Australia that they had breached the Industry Code on the siting of communications infrastructure. The warnings followed an official ACA investigation of complaints lodged under the Industry Code in relation to the carrier's consultation processes not meeting the requirements of the Industry Code.

- (7) Yes.

(a) Hutchison has advised that as of 30 November 2004, it has nine 3G sites installed on Commonwealth owned land. Four of these sites are at airports and five 3G sites are located on Defence lands. In addition, Hutchison has advised that it has 43 sites at Telstra Exchanges, some of which may be on Commonwealth owned land. Optus has also advised that as of 30 November 2004, it has one trial 3G site on Commonwealth land in Crows Nest, NSW.

(b) See question 7 (a) above.

(c) Hutchison has further advised that the approximate rent for these sites are on average:

- (i) Airports - \$20,000 per annum;
- (ii) Defence land - \$15,000 per annum; and
- (iii) Telstra exchanges - \$20,000 per annum.

Optus has advised that the rental paid for lease of the land for its facility is commercial in confidence.

- (8) Commonwealth legislation does not distinguish between ownership of land, i.e. Commonwealth, State or privately owned land, for the siting of telecommunication facilities. The Telecommunications (Low Impact facilities) Determination 1997 (the Determination) defines low-impact facilities and differentiates between zoning areas, by way of reference to zoning arrangements under State and Territory planning laws to determine where a facility may be located. The installation of facilities that are not low impact or that are installed on State Government owned land will be subject to the applicable jurisdictions planning legislation.

- (9) The Australian Communications Authority (ACA) has advised that as required by Part 3.5 of the Radiocommunications Act 1992, the ACA's radiocommunication database holds technical information about licences. This includes such things as the frequency of a transmitter or receiver, the power, antenna information, and the location which includes an address and geographic coordinates. All 3G transmitters operate under Spectrum Licences, although Spectrum Licences do not record what purpose the licence is used for.

The ACA has further advised that it keeps records of the location of transmitters for Spectrum Licences. The ACA has further advised that it does not record whether the transmitters are for 3G purposes, who owns the facility and whether the facility is installed and in operation or whether it is installed on Commonwealth land. Nor does the ACA maintain a record of all places where children congregate for long periods.

- (10) The ACA has advised that it keeps records of the location of transmitters for Spectrum Licences. The ACA has further advised that the general public can access information regarding the location of transmitters via its website at [http://www.aca.gov.au/pls/radcom/register\\_search.main\\_page](http://www.aca.gov.au/pls/radcom/register_search.main_page).

- (11) The Government recognises there is some concern in the Australian community about the possibility of long-term effects on health of exposure to electromagnetic energy (EME) emissions used in mobile telephony. The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA), within the Health and Ageing portfolio, sets the standard for public occupational limits of exposure to radiofrequency emissions.

The Government provides one million dollars a year for the Radiofrequency Electromagnetic Energy (EME) Program. The EME program supports research into and provides information to the public about health issues associated with mobile phones, mobile phone base stations, and other communications devices and equipment.

The Telecommunications Code of Practice 1997 (the Code), requires that carriers provide adequate prior notification to landowners and occupiers, including the local Council (where the Council is the manager of public land), of their intention to inspect and to install telecommunications facilities.

Under the Australian Communications Industry Forum (ACIF) Deployment of Radiocommunications Infrastructure Code (the Industry Code) the public can request, at any time, that a carrier provide information on radiation levels around base stations. Additionally, the Industry Code provides for a significant expansion of consultative practices required by carriers with affected community members.

On 8 November 2004, the Australian Communications Authority (ACA), in conjunction with ARPANSA, launched a comprehensive information package on EME and mobile phone towers. This information package was developed to address community concerns about EME and health issues, particularly those associated with the installation of mobile phone infrastructure, by providing information on electromagnetic emissions, the deployment of mobile phone towers, use of mobile phone handsets and associated health issues. A new web portal, which contains all the information in the package, can be accessed through [emr.aca.gov.au](http://emr.aca.gov.au).

**Environment: Recherche Bay****(Question No. 152)**

**Senator Brown** asked the Minister for the Environment and Heritage, upon notice, on 1 December 2004:

With reference to the nomination of the northern peninsula of Recherche Bay for the National Heritage List:

- (1) What studies have been undertaken to ascertain the values of the area.
- (2) When will the assessment of the nomination be completed.
- (3) What action will be taken to ensure that no activities detrimental to the protection of the area are proceeded with before a decision is made about the nomination.

**Senator Ian Campbell**—The answer to the honourable senator's question is as follows:

- (1) A desktop study on the early maritime exploration of Australia has been completed for use by the Australian Heritage Council (the Council). The Council will consider whether further studies are required.
- (2) The Council is required to give a written assessment to me on whether this place meets any of the National Heritage criteria within the 12 months statutory assessment period which concludes on 2 March 2005.
- (3) The specific circumstances of the proposed activities would be considered before deciding the course of action which would be appropriate.

**Drugs: Illicit Usage****(Question No. 155)**

**Senator Brown** asked the Minister for Justice and Customs, upon notice, on 2 December 2004:

For each state and territory in each of the past 10 years up to and including 2004 (to date), how many persons have been: (a) convicted of drug-related offences; (b) gaoled for drug-related offences; and (c) diverted to health or education or other remedial options after apprehension for drug-related offences.

**Senator Ellison**—The answer to the honourable senator's question is as follows:

- (a) I am advised that according to the most recent data from the Australian Bureau of Statistics, the number of persons convicted of drug-related offences in each state and territory has been available since 2001-2002 for Higher Courts. This is provided as follows:

Defendants proven guilty in Australia for the Principal Offence (a) of Illicit Drug Offences (b).

	Higher Courts Data(c)		
	2001-2002	2002-2003	2003-2004
NSW	553	513	nya
Vic	190	198	nya
Qld	563	495	nya
SA	267	171	nya
WA	293	302	nya
Tas.	19	32	nya
NT	40	44	nya
ACT	17	7	nya
Aust.	1942	1762	nya
nya	not yet available (due 11 February 2005)		

(a) Principal offence adjudicated is the offence category (based upon the Australian Standard Offence Classification - ASOC), associated with the main charge that has an adjudicated finalisation (i.e. an outcome of acquitted or proven guilty). For a defendant who has a method of finalisation of proven guilty, the principal offence refers to the main charge proven guilty.

(b) ASOC Division 10, Illicit Drug Offences, includes the following offences: Import or Export Illicit Drugs, Deal or Traffic in Illicit Drugs, Manufacture or Cultivate Illicit Drugs, Possess and/or Use Illicit Drugs, and Other Illicit Drug Offences. The division does not include Offences involving the misuse or illegal obtaining of licit drugs, prescription drug fraud, illicit drug theft, or the administration of illicit drugs or a poison to a person. For detailed description of included and excluded offences, see ABS publication Australian Standard Offence Classification 1997 (cat. no. 1234.0).

(c) The criminal jurisdiction of a District/County Court or Supreme Court

Source: Australian Bureau of Statistics, Criminal Courts, Australia, (cat. No. 4513.0).

(b) I am advised that according to the most recent data from the Australian Bureau of Statistics, the number of persons gaoled for drug-related offences for each state and territory in each of the past 10 years up to and including 2004, is as follows:

Sentenced prisoners (a), with a most serious offence (MSO)(b) of Illicit Drug Offences (c)

	NUMBER OF PRISONERS										
	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
NSW	1150	1100	981	934	759	767	826	888	870	856	nya
Vic	220	204	202	198	293	292	295	326	318	325	nya
Qld	109	159	223	248	272	310	336	304	282	318	nya
SA	72	77	91	90	88	90	70	84	111	86	nya
WA	157	137	125	130	132	182	226	223	230	229	nya
Tas.	3	3	6	6	6	5	6	5	3	7	nya
NT	10	14	10	18	13	15	17	22	26	19	nya
ACT in ACT(d)	..	..	..	..	5	2	1	—	—	1	nya
ACT in NSW	na	11	8	16	14	16	24	11	7	6	nya
Aust.	1721	1694	1638	1624	1568	1663	1777	1852	1840	1841	1925
—	Nil or rounded to zero										
..	Not applicable										
na	Not available										
nya	Not yet available										

(a) Sentenced prisoners are those persons who have received a term of imprisonment from a court. This includes offenders who have been given an indeterminate sentence or custodial order, or those who have received a life sentence.

(b) For sentenced prisoners, the most serious offence (MSO) is the offence for which the prisoner has received the longest sentence in the 'current episode'. Where sentences are equal, or the longest sentence cannot be determined, the MSO is the offence with the lowest Australian Standard Offence Classification (ASOC). From 2001, MSO data has been classified according to the ASOC, prior to 2001, MSO was classified according to the Australian National Classification of Offences (ANCO). There have been a number of state and territory variations in the definition of MSO in an episode noted during this period:

From 1994, in Tasmania the most serious offence is the offence for which the prisoner has received the longest aggregate sentence in this episode for all counts of that offence.

From 1995, South Australia bases the most serious offence for prisoners that have breached parole and returned to prison on the original episode plus any new offences offence(s)) committed while on parole.



From 2003, in Western Australia the most serious offence is selected from all offences recorded during the whole 'current episode'. However, differences in the definition of an episode exist in Western Australia.

(c) ANCO Drug offences (excluding theft of drugs) included: Possession/use of narcotics, cannabis or other drugs; Importing and exporting of drugs; Manufacturing and growing drugs; and Other drug offences. For detailed description of included and excluded offences, see ABS publication Australian National Classification of Offences 1985 (cat. no. 1234.0). ASOC Division 10, Illicit Drug Offences, includes the following offences: import or Export Illicit Drugs, Deal or Traffic in Illicit Drugs, Manufacture or Cultivate Illicit Drugs, Possess and/or Use Illicit Drugs, and Other Illicit Drug Offences. The division does not include Offences involving the misuse or illegal obtaining of licit drugs, prescription drug fraud, illicit drug theft, or the administration of illicit drugs or a poison to a person. For detailed description of included and excluded offences, see ABS publication Australian Standard Offence Classification 1997 (cat. no. 1234.0).

(d) Prisoners sentenced in the Act are held in NSW prisons and are included in the NSW figures.

Source: Australian Bureau of Statistics, Prisoners in Australia, (cat. No. 4517.0).

(c) I am advised that the Australian Bureau of Statistics does not produce data on persons diverted to health or education or other remedial options after apprehension for drug-related offences.

### **Taxation: Income Tax**

#### **(Question No. 178)**

**Senator Brown** asked the Minister representing the Treasurer, upon notice, on 13 December 2004:

- (1) How much are eligible single senior Australians entitled to earn before income tax is payable.
- (2) What rate of income tax applies above this level.
- (3) Above this level: (a) what other levies or taxes apply and/or which benefits are withdrawn; and (b) what is the effective marginal rate of tax.

**Senator Minchin**—The Treasurer has provided the following answer to the honourable senator's question:

- (1) Single senior Australians who are eligible for the Senior Australians' Tax Offset can earn taxable income of up to \$20,500 before income tax is payable.
- (2) The marginal rate of income tax which applies to taxable incomes above the tax-free threshold and up to \$21,600 is 17 per cent.
- (3) (a) For single senior Australians with taxable income between \$20,501 and \$38,340, the Senior Australians' Tax Offset phases out at a rate of 12.5 cents for each additional dollar of taxable income.

The low income tax offset phases out for all Australian taxpayers between taxable income of \$21,600 and \$27,475, at a rate of 4 cents for each additional dollar of taxable income.

The Medicare levy will apply to single senior Australians with taxable income above \$20,500, although the levy phases in so that the full 1.5 per cent is not payable until taxable income exceeds \$22,162.

The withdrawal of any benefits will depend upon the entitlements of the individual taxpayer.

(b) The effective marginal rate of tax for a single senior Australian with taxable income above \$20,500 will depend on factors which will be unique to the individual taxpayer, such as their level of taxable income, their entitlement to any benefits and their entitlement to any tax offsets.

**Murray-Darling Basin: Report  
(Question No. 179)**

**Senator Brown** asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 13 December 2004:

- (1) Will the Minister provide a copy of the report, Quantifying and valuing land use change for integrated catchment management evaluation in the Murray-Darling Basin 1996-97 – 2000-01, by the Commonwealth Scientific and Industrial Research Organisation (CSIRO).
- (2) Why was the report removed from the CSIRO website.

**Senator Ian Macdonald**—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

- (1) The report, Quantifying and valuing land use change for integrated catchment management evaluation in the Murray-Darling Basin 1996-97 – 2000-01 is on the following website: <http://www.clw.csiro.au/publications/consultancy/>
- (2) A response to this question is the responsibility of the Minister representing the Minister for Education, Science and Training.

**Murray-Darling Basin: Report  
(Question No. 180)**

**Senator Brown** asked the Minister representing the Minister for Education, Science and Training, upon notice, on 13 December 2004:

- (1) Will the Minister provide a copy of the report, Quantifying and valuing land use change for integrated catchment management evaluation in the Murray-Darling Basin 1996-1997 – 2000-01, by the Commonwealth Scientific and Industrial Research Organisation (CSIRO).
- (2) Why was the report removed from the CSIRO website.

**Senator Vanstone**—The Minister for Education, Science and Training has provided the following answer to the honourable senator's question:

- (1) Yes.
- (2) The CSIRO-authored report for the Murray Darling Basin Commission (MDBC), Quantifying and valuing land use change for Integrated Catchment Management evaluation in the Murray-Darling Basin 1996/97 – 2000/01 was published on the CSIRO Land and Water website with MDBC approval on 23 November 2004. The report was removed from the website on 24 November 2004 upon request from the MDBC for two reasons:
  - Media comment indicated that the report's expression of the water use data regarding the increase in the area under irrigation could be misinterpreted and this needed to be addressed. Therefore, at the request of the MDBC, CSIRO Land and Water made some editorial modifications and additions to the report, mainly in the Executive Summary, to help guide interpretation of the data presented. The underpinning methodology, scientific integrity and results were not changed.

Following MDBC approval, the final report was then published on the CSIRO Land and Water's website on 20 December 2004.

- The MDBC wished to announce the release of the report and its availability on the Internet through a media release. This was issued by the MDBC on 20 December 2004.

**Commonwealth: Badgerys Creek Properties****(Question No. 186)**

**Senator Mark Bishop** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 17 December 2004:

- (1) (a) How many properties are owned by the Commonwealth at Badgerys Creek; (b) what was the original purchase price for each property; and (c) what is the combined current market value.
- (2) What is the total annual cost of rates paid to local government.
- (3) What plans exist for either purchase or sale of any property.
- (4) (a) How many properties are currently leased; and (b) what is the average term of the tenancies.
- (5) What discussions have been conducted with the New South Wales Government on the planning and sale of the land for future urban development.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) (a) There are 254 properties amalgamated into one title, as well as a further 12 properties acquired as potentially noise affected at the time; (b) the total expenditure to 2002 on property acquisition including outstanding claims and local access roads was \$165m. The individual prices paid for each property and other costs are confidential, disclosure may prejudice the Commonwealth's interests; (c) the Government does not have a current market value as such value would vary depending on class of use for which the properties were potentially marketed.
- (2) The annual payment of monies in lieu of rates to local government is \$234,000 (2003-4 rates).
- (3) There are no plans for purchase or sale of property at this site.
- (4) There are 12 commercial leases which terminate on 31 December 2005 unless further options to take up terms are exercised. The remaining lessees are residential on standard NSW residential leases (12 months) which are renewed annually, unless the tenant vacates.
- (5) There have been no discussions with the NSW Government regarding the planning and sale of the land for future urban development. The department has ongoing dialogue with the NSW Department of Information, Planning and Natural Resources (DIPNR) to ensure minimisation of incompatible development adjacent to the site.

**Transport: Federal Interstate Registration Scheme****(Question No. 187)**

**Senator Mark Bishop** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 17 December 2004:

- (1) What is the current maximum registration charge under the Federal Interstate Registration Scheme.
- (2) When were these charges last reviewed and changed by ministers at the Australian Transport Advisory Council (ATAC).
- (3) What work is currently under way to review: (a) the charges; and/or (b) the charging formula.
- (4) Will this matter be considered by ministers at the next ATAC; if so, when and where will that meeting be held.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) Heavy vehicle registration charges are nationally uniform across Australia for all heavy vehicles. Heavy vehicle registration charges under the Federal Interstate Registration Scheme (FIRS) are consistent with those charged under the National Heavy Vehicle Registration Scheme. The current

Schedule detailing charges for FIRS vehicles was published in the Commonwealth of Australia Gazette S162 of 19 May 2004. Under the schedule the maximum charge of \$7,492 applies to a B-double combination which is the largest combination permitted to be registered under FIRS.

- (2) The level of heavy vehicle registration charges is periodically reviewed by the National Transport Commission (NTC) and recommendations made to the Australian Transport Council (ATC) in the form of a Determination.

The most recent Determination was made in 2000. However, an annual adjustment procedure agreed by ATC Ministers in May 2001 provides for an automatic annual adjustment to heavy vehicle registration charges in between the making of Determinations. This was decided because Determinations involve substantial resources and time to produce. The current annual adjustment, made on 1 July 2004, increased national heavy vehicle registration charges by 0.3%.

- (3) The NTC is currently conducting a recalculation and review of the charges for a Third Determination. This work is being conducted within charging principles agreed by ATC in August 2004.
- (4) It is currently anticipated the NTC's recommendations on a Third Determination will be considered by ATC Ministers in the first half of 2006.

**Primary Energy Ltd**

**(Question No. 195)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 20 December 2004:

Has Primary Energy Limited sought funding or other assistance from any department or agency for which the Minister is responsible in connection with the company's ethanol project at Gunnedah; if so, will the Minister provide details including: (a) date; (b) amount of funding or other assistance sought; (c) relevant departmental or agency program from which funding or other assistance was sought; and (d) funding or other assistance provided or currently under consideration.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

Yes.

(a) The application was received by the Namoi Valley Structural Adjustment Package's Executive Officer in the period between 4 June and 24 June 2003.

(b) \$1,100,000 (GST ex)

(c) Namoi Valley Structural Adjustment Package, subsequently rolled into Regional Partnerships Programme in July 2004.

(d) \$1,100,000 (GST ex).

**Primary Energy Ltd**

**(Question No. 199)**

**Senator O'Brien** asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 20 December 2004:

Has Primary Energy Limited sought funding or other assistance from any department or agency for which the Minister is responsible in connection with the company's ethanol project at Gunnedah; if so, will the Minister provide details including: (a) date; (b) amount of funding or other assistance sought; (c) relevant department or agency program from which funding or other assistance was sought; and (d) funding or other assistance provided or currently under consideration.

**Senator Minchin**—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator's question:

The information is not available due to its commercial in confidence nature.

**Primary Energy Ltd**

**(Question No. 200)**

**Senator O'Brien** asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 20 December 2004:

Has Primary Energy Limited sought funding or other assistance from any department or agency for which the Minister is responsible in connection with the company's ethanol project at Gunnedah; if so, will the Minister provide details including: (a) date; (b) amount of funding or other assistance sought; (c) relevant departmental or agency program from which funding or other assistance was sought; and (d) funding or other assistance provided or currently under consideration.

**Senator Abetz**—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

Primary Energy Limited has not sought any funding or other assistance from the Department of Employment and Workplace Relations.

**Hon. De-Anne Kelly, MP**

**(Question No. 202)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 20 December 2004:

- (1) On what date were media statements issued by the Honourable De-Anne Kelly MP in her capacity as Parliamentary Secretary to the Minister for Transport and Regional Services and Parliamentary Secretary to the Minister for Trade removed from the department's website.
- (2) Who ordered Ms Kelly's media statements to be removed.
- (3) Will the Minister provide copies of all statements issued by Ms Kelly in her capacity as Parliamentary Secretary to the Minister for Transport and Regional Services and Parliamentary Secretary to the Minister for Trade.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) Following changes to the Ministry in November 2004, the links to Ms Kelly's website, which included access to media statements, were removed. This was consistent with normal departmental practice. Normal practice should also have included the insertion of a link to Ms Kelly's website under the list of 'Previous Ministers'. The omission of this link was an oversight.
- (2) Ms Kelly's media statements were not removed from the department's website. All information pertaining to Ms Kelly was and still is accessible at <http://www.ministers.dotars.gov.au/dk/home.htm> and able to be accessed online via the website's Search facility.
- (3) A new link to Ms Kelly's media statements has been created under links to statements by 'Previous Ministers', and accordingly copies of all of Ms Kelly's media statements can now also be found at: <http://www.ministers.dotars.gov.au/previous.htm>.

**Industry, Tourism and Resources: Programs****(Question No. 204)**

**Senator O'Brien** asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 20 December 2004:

- (1) On what date were expressions of interest and/ or applications first sought under round one of the scheme.
- (2) Did Primary Energy Limited lodge an expression of interest and/ or application under round one, if so: (a) on what date(s); (b) on what date did Primary Energy Limited receive a debriefing on its unsuccessful application; (c) what form did the debriefing take; and (d) who participated in the debriefing.
- (3) What was the closing date for lodgement of applications.
- (4) How many applications were lodged.
- (5) On what date were the successful projects announced.
- (6) What projects were funded under this round.
- (7) For each successful project from round one of the scheme, will the Minister provide: (a) the amount of funding offered; (b) a brief description; and (c) progress report including grants paid.
- (8) How many jobs have been created as a result of round one of the scheme.
- (9) On what date were expressions of interest and/ or applications first sought under round two of the scheme.
- (10) Did Primary Energy Limited lodge an expression of interest and/ or application; if so, so what date(s).
- (11) What was the closing date for lodgement of applications.
- (12) How many applications have been lodged.
- (13) Do the published round two guidelines advise that applicants would be advised of the outcome late in 2004.
- (14) On what date were round two assessments completed.
- (15) On what date did Invest Australia provide a shortlist to the Ministers of projects that meet the scheme criteria.

**Senator Minchin**—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator's question:

- (1) 25 July 2003.
- (2) This information is not available due to its commercial in confidence nature.
- (3) 12 December 2003 (this was revised subsequently due to changes to excise regime).
- (4) 41 applications.
- (5) 22 June 2004.
- (6) The successful projects were: CSR Distilleries Operations; Biodiesel Industries Australia; Schumer Pty Ltd; Biodiesel Producers Ltd and Australian Renewable Fuels Pty Ltd.
- (7) (a) (b) CSR Distilleries Operations (\$4.16 million), an ethanol plant at Sarina, QLD (\$4.16 million); Biodiesel Industries Australia, a biodiesel plant at Rutherford, NSW (\$1.28 million); Schumer Pty Ltd [Rocky Point Sugar Mill], an ethanol plant at Woongoolba, QLD (\$2.4 million); Biodiesel Producers Ltd, a biodiesel plant at Barnawatha, VIC (\$9.6 million); and Australian Renewable Fuels Pty Ltd, a biodiesel plant in Port Adelaide, SA (\$7.15 million). (c) All projects are

currently finalising relevant deeds of agreements with the Commonwealth of Australia, before grants are paid.

- (8) Almost 100 new jobs.
- (9) 22 June 2004.
- (10) This information is not available due to its commercial in confidence nature.
- (11) 31 August 2004.
- (12) 23 applications.
- (13) Yes.
- (14) On 23 December 2004, Minister Macfarlane announced the successful projects under round two of the Program.
- (15) Invest Australia provided assessments and analysis of individual applicants under round two of the Program to the Government. No shortlist of projects was provided to the Minister.

#### **Aviation: Melbourne Airport**

##### **(Question No. 214)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 21 December 2004:

With reference to the failure to complete the quarantine infrastructure upgrade at Melbourne Airport as reported on page 75 of the department's annual report 2003-04:

- (1) Will the Minister provide a detailed explanation for the failure to complete the project.
- (2) When will the upgrade be completed.
- (3) What additional costs, if any will result from the delay.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) Completion of the project was delayed for the following reasons:
  - (i) other airport infrastructure work being carried out at the same time meant contractors could not access certain areas to complete relocation of staff facilities by 30 June;
  - (ii) reconfiguration of some of the newly installed queuing and inspection areas (at the request of the border agencies) was required to ensure maximum efficiency;
  - (iii) the installation of a glass screen at the end of the baggage carousel nearest the quarantine and inspection area was delayed due to sourcing the screen overseas;
  - (iv) works identified in the original scope of works and removed due to potential budget over runs, were reinstated upon agreement by border agencies once project savings were identified by the Project Managers.

Further minor works are anticipated over the next month as the project is bedded in – eg \$4,000 was approved for minor defect air conditioning works on 22 December 2004 in response to abnormally high temperature readings in the inspection hall which were a direct result of IQI works.
- (2) It is anticipated the total project will be finalised within the first quarter of 2005.
- (3) Additional project management fees amounting to \$128,554 have been incurred as a result of project delays although it is anticipated the total project will come in under budget.



**Remote Air Service Subsidy Scheme  
(Question No. 240)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 22 December 2004:

- (1) By state and territory, which isolated communities are supported by the Remote Air Services Subsidy Scheme (RASS) in the 2004-05 financial year.
- (2) For the 2002-03, 2003-04 and 2004-05 financial years: (a) which communities have made application to the RASS but were not accepted for admission; (b) which of these communities met the criteria for admission but were not admitted due to budget constraints; and (c) which communities have been admitted to the RASS by the Minister despite not meeting criteria for admission.
- (3) (a) For the 2002-03 and 2003-04 financial years, how many communities were supported by the RASS; and (b) how many communities are supported in the 2004-05 financial year.
- (4) With reference to the 2004-05 RASS budget announcement, how many communities will be supported by the scheme in the 2005-06, 2006-07 and 2007-08 financial years.
- (5) Was the tender process for the selection of RASS operators that commenced in May 2004 completed by 30 June 2004; if not: (a) why not; (b) is it the case that operators' contracts ended on 30 June 2004; (c) when was the tender completed; (d) which operators now hold the contracts; and (e) what is the term of those contracts.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) A list of communities receiving support under RASS in 2004-05 as at 1 January 2005 is at Attachment A.

(2)

	2002 - 03	2003 - 04	2004 - 05
a) which communities have made application to the RASS but were not accepted for admission	WA - Spring Creek Station Yagga Yagga community NT - Kenmore Park Station, Yuelamu community, Mountain Valley Station SA - Anangu Pijantjatjara Lands communities x 9	WA - Ethel Creek Station, Nullagine township Qld - Sandringham Station, Chillagoe township Bolwarra Station, Normanton township, Kowanyama community, Coen township, Burketown township NT - Eva Downs Station, Victoria River Downs Station, Kalkarindi community	Delamere Station (NT) as did not meet the RASS eligibility criteria
b) which of these communities met the criteria for admission but were not admitted due to budget constraints	Kenmore Park Station	nil	nil



	2002 - 03	2003 - 04	2004 - 05
c) which communities have been admitted to the RASS by the Minister despite not meeting criteria for admission	Nil	Nil	Nil

- (3) The number of communities supported by RASS in 2002-03 was 250. In 2003-04 the number of communities supported by RASS was around 230 and as at 1 January 2005 the number of communities receiving RASS are 217.
- (4) The RASS budget for the forward years will enable additional communities to be admitted onto the RASS scheme. It is impossible to estimate the number of communities likely to apply between 2005 – 06 and 2007 – 08 as communities can apply at any time and if they are eligible for RASS, if there are funds available and an air operator is able to provide the weekly air passenger and freight service, then the community can begin to receive a RASS service. Additionally communities currently receiving a RASS service may seek to no longer receive the service or may become ineligible for the RASS service (eg by not complying with aerodrome standards set by CASA, by separately receiving a regular air service or by improvements to local roads thereby reducing the time taken to drive to their local service centre). The cost for providing the RASS service to each individual community is dependent upon a range of factors such as distance to other RASS ports, the effect on the flight time of an existing air service and hourly flying costs. Taking all these factors into account it is not possible to quantify the number of communities that will be supported by RASS into the future.
- (5) The RASS tender process was not completed by 30 June 2004:
- (a) In late January 2004, the Department of Transport and Regional Services (DOTARS) invited tenders for new contracts for RASS services to eligible communities. Tenders received indicated that the quantum of RASS funding at that time was not sufficient to service all eligible communities. The 2004-05 Budget provided additional funding of \$7.7m for the scheme over the next four years. The January tender was terminated and a new tender commenced. This new tender was advertised on 22 May 2004 and closed on 15 June 2004. Evaluation of the tender bids was detailed and complex and could not be completed by 30 June 2004.
- (b) Yes, contracts with existing RASS air operators ended on 30 June 2004, however these contracts were extended to enable RASS services to continue while the tender evaluation process was finalised.
- (c) The RASS tender panel's recommendations were approved by the delegate on 28 October 2004.
- (d) The following air operators were successful in winning RASS contracts:
- Lip Air Pty Ltd t/a Aero-Tropics (Cape York region)
  - West Wing Aviation (Channel and Gulf Country regions)
  - Syncom Pty Ltd t/a Chartair (Northern Territory regions)
  - Aboriginal Air Services (Desert Country region)
  - Golden Eagle Airlines (Kimberley and Pilbara regions)
  - Aerotechnology Pty Ltd (Cape Barren Island).
- (e) The term of the new RASS contracts is two years with an option to extend by no more than two periods of twelve months each.

## Attachment A

## RASS COMMUNITIES/PORTS BY REGION – as at 1 January 2005

## REGION 1 - PILBARA - All in Western Australia

1. Tangadee Station
2. Prairie Downs Station
3. Turee Creek Station
4. Jigalong Community
5. Balfour Downs Station
6. Parnngurr Aboriginal Community (Cotton Creek)
7. Punmu Aboriginal Corporation
8. Kunawarritji Aboriginal Community (Well 33)
9. Hillside Station
10. Warrawagine Station
11. Yarrie Station

## REGION 2 - KIMBERLEY Communities in NT are shown, otherwise all in WA

12. Myroodah Station
13. Kalyeeda Station
14. Beefwood Park Station
15. Bohemia Downs
16. Yampi Field Training Area (previously Kimbolton and Oobagooma Stations)
17. Mt Hart (Wilderness Lodge)
18. Beverley Springs Station
19. Mt House Station
20. Mornington Wildlife Sanctuary (Old Mornington Homestead)
21. Tablelands Station (Yulmbu Aboriginal Corporation)
22. Mt Elizabeth Station
23. Kandiwal Aboriginal Corporation
24. Kalumburu Mission
25. Theda Station
26. Doongan Station
27. Drysdale River Station
28. Ellenbrae Station
29. Home Valley Station
30. Ringer Soak Aboriginal Community (Kundat Djaru)
31. Bililuna Station (Mindibungu Aboriginal Corporation)
32. Mulan Aboriginal Community (Lake Gregory)
33. Inverway Station (NT)
34. Balgo Aboriginal Community
35. Gibb River Station

- 
36. Nicholson Station
  37. Birrindudu Station (NT)
  38. Dampier Downs
  39. Oombulgurri Aboriginal Association
  40. Flora Valley Station
  41. Liveringa Station
  42. Nerrima Station
  43. Millajidee (Kadjina Community)
  44. Noonkanbah (Yungnora Association)
  45. Mt Barnett

REGION 3 - CHANNEL COUNTRY Communities in Queensland are shown, otherwise all in South Australia

46. Marree township
47. Dulkaninna Station
48. Etadunna Station
49. Mulka Station
50. Clifton Hills Station
51. Pandie Pandie Station
52. Cordillo Downs Station
53. Innamincka township and station (using station airstrip)
54. Merty Merty Station
55. Moolawatana Station
56. Roseberth Station –(QLD)
57. Durrie Station – (QLD)
58. Glengyle Station – (QLD)
59. Durham Downs Station – (QLD)
60. Cowarie Station
61. Mungerannie Station

REGION 4 - CAPE BARREN ISLAND - Tasmania

62. Cape Barren Island

REGION 5 - CAPE YORK – All in Queensland

63. Robin Hood Station
64. Georgetown Post Office
65. Abingdon Downs Station
66. Torwood Station
67. Wrotham Park Station
68. Bellevue Station
69. Mt Mulgrave Station
70. Gamboola Station

71. Highbury Station
72. Dunbar Station
73. Dinah Island Station
74. Inkerman Station
75. Rutland Plains Station
76. Drumduff Station
77. Strathleven Station
78. Pinnacles Station
79. Balurga Station
80. Southwell Station
81. Stathmay Station
82. Strathburn Station
83. Strathhaven Station
84. Dixie Station
85. Mary Valley Station
86. Lakefield National Park
87. New Laura Ranger Station
88. Battle Camp Station
89. Musgrave Roadhouse
90. Violet Vale Station
91. Lilyvale Station
92. Yarraden Station
93. Crystal Vale Station
94. Holroyd River Station
95. Rokeby (Mungkan Kaaju National Park)
96. Archer River Roadhouse / Wolverton Station
97. Orchid Creek Station
98. Piccaninny Plains Station
99. Merluna Station
100. Watson River Station
101. Wattle Hill Station
102. Batavia Downs Station
103. Moreton township
104. Croydon township
105. Bramwell Station
106. Strathgordon Station
107. Silver Plains Station
108. Glen Garland Station
109. Vanrook Station

110. Heathlands Ranger Base

111. Kendall River Station

112. Koolatah Station

113. Kalinga Station

114. Sudley Station

115. Koolburra Station

116. Palmerville Station

117. Fairlight Station

118. King Junction Station

119. Laura (township)

120. Dorunda Station

121. Kingvale Station

REGION 6 - GULF COUNTRY Communities in NT are shown, otherwise all in Queensland

122. Lake Nash Station / Alpururulam Aboriginal Community (NT)

123. Austral Downs Station (NT)

124. Headingly Station

125. Barkly Downs Station

126. Herbertvale Station

127. Bowthorn Station

128. Lawn Hill Station

129. Hell's Gate Roadhouse/Cliffdale Station

130. Augustus Downs Station

131. Wondoola Station

132. Iffley Station

133. Tobermorey Station

134. Manners Creek Station

135. Gregory Downs (township)

136. Lorraine Station

REGION 7 - NORTHERN TERRITORY - NORTH OF TENNANT CREEK - All in NT

137. Bunda Station

138. Riveren Station

139. McDonald Bore Station

140. Camfield Station

141. Montejinni Station

142. Gilnockie Station

143. Killarney Station

144. Yarralin (Walpiri Aboriginal Community)

145. Humbert River Station

146. Kidman Springs Station

- 147. Limbunya Station
- 148. Waterloo Station
- 149. Legune Station
- 150. Bullo River Station
- 151. Auvergne Station
- 152. Bulman Aboriginal Community
- 153. Hodgson Downs (Alawa) Aboriginal Community (Minyeri)
- 154. Hodgson River Station
- 155. Linman National Park (Nathan River Homestead)
- 156. Tanumbirini Station
- 157. McArthur River (Bessie Springs) Station
- 158. Borroloola township
- 159. Pungalina Station
- 160. Mungoorbada Aboriginal Community (Robinson River)
- 161. Wollgorang Station/Roadhouse
- 162. Redbank Mine
- 163. Calvert Hills Station
- 164. Kiana Station
- 165. Mallapunya Springs Station
- 166. Wallhallow Station
- 167. Benmara Station
- 168. Ucharonidge Station
- 169. Mittiebah Station
- 170. Suplejack Station
- 171. Kildurk Station (Amanbidji/Mialuni)
- 172. Nelson Springs Station
- 173. Urapunga School
- 174. Bunbidee (Pigeon Hole) Community
- 175. Wave Hill Station

REGION 8 - NORTHERN TERRITORY – SOUTH OF TENNANT CREEK – Communities in Western Australia and South Australia are shown, otherwise all in NT

- 176. Lambina Station (SA)
- 177. Todmorden Station (SA)
- 178. Tieyon Station (SA)
- 179. Mt Dare Homestead/Motel (SA)
- 180. New Crown Station
- 181. Finke (Apatula)
- 182. Andado Station
- 183. Lilla Creek Station

- 
184. Idracowra Station
  185. Kiwirrkurra (Ngaanyatjarra Aboriginal Community (WA)
  186. Vaughan Springs Station
  187. Mt Denison Station
  188. Willowra School/Community
  189. Tanami Downs Station
  190. Rabbit Flat Roadhouse
  191. The Garden Station
  192. Alcoota Station (share airstrip with Engawaca Aboriginal Community)
  193. Harts Range (Atitjere Aboriginal Community)
  194. Jervois Station
  195. Tarlton Downs Station
  196. Lucy Creek Station
  197. Urapuntja Council – based at Arlparra (Utopia)
  198. Ammaroo Station
  199. Ampilatwatja Aboriginal Community
  200. Argadargada Station
  201. Annitowa Station
  202. Epenarra Aboriginal Community/Station
  203. Canteen Creek Aboriginal Community (Owairtilla)
  204. Elkedra Station
  205. Umbeara Station
  206. Arramwelke Aboriginal Corporation (Baikal Airstrip)
  207. Marqua Station
  208. Numery Station
  209. Ringwood Station
  - REGION 9 - DESERT COUNTRY - Communities as shown
  210. Cosmo Newberry (Ngaanyatjarra Aboriginal Community) (WA)
  211. Tjirrkalii (Ngaanyatjarra Aboriginal Community) (WA)
  212. Patjarr (Ngaanyatjarra Aboriginal Community) (WA)
  213. Tjuntjuntjarra Aboriginal Community (WA)
  214. Ilkurlka Aboriginal Community (WA)
  215. Mt Lindsay (Pitjantjatjara Lands) (SA)
  216. Nyapari (Pitjantjatjara Lands) (SA)
  217. Docker River Aboriginal Community (NT)

**Roads: Roads to Recovery Program**

**(Question No. 242)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 22 December 2004:

With reference to the claim on page 81 of the department's annual report for 2003-04 that the Roads to Recovery program has created Indigenous employment: by location, what Indigenous employment outcomes can be attributed to the program since its inception.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

The issue of indigenous employment was one of the issues canvassed in the review of the programme issued in May 2003. The statement made in the annual report is attributable to the Roads to Recovery review of May 2003, in particular the case studies. The finding of the review team was as follows:

'Some Councils took the opportunity to link the Roads to Recovery Programme to the Indigenous Employment Policy (IEP) to obtain additional funds. For example, the Umbakumba Community Council in the Northern Territory leveraged the Roads to Recovery funds with Community Development Employment Programme funds and \$51,000 of its own funds to develop the skills and capacity of its isolated community in drainage, kerb and road construction.

The programme resulted in the community being fully kerbed with the construction of over 5.2 km of kerbing. The skills developed by people in the programme are now being used to create a local construction business'.

Umbakumba Community Council is on Groote Eylandt.

Employment outcomes are not specifically monitored under Roads to Recovery, but two instances where funding was used in conjunction with the former ATSIC are case studies in the review report. These are Marngarr Community Government Council, near Nhulunbuy, NT and a project undertaken by the Local Government Association of the Northern Territory for several projects on the road which links the Mailuni Community to the Victoria Highway some 62km to the north. The Community is just east of the WA/NT border.

### **Bert Hinkler Hall of Aviation Museum**

#### **(Question No. 246)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 22 December 2004:

- (1) What Commonwealth funds have been expended on the Bert Hinkler Hall of Aviation Museum in Bundaberg, Queensland.
- (2) (a) For what purposes have those funds been expended; and (b) by financial year, from which programs have those funds been sourced.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) To date \$50,000 has been expended by the Department of Transport and Regional Services on the Bert Hinkler Hall Aviation Museum.
- (2) (a) Planning component to support the construction of the Bert Hinkler Hall of Aviation Museum  
(b) 2002-2003, funded through a Specific Purpose Payment.

### **Sustainable Regions Program**

#### **(Question No. 253)**

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 22 December 2004:



- (1) What role did the department play in assessing the relative needs of the Western Queensland and Western New South Wales and Northern Rivers and North Coast of New South Wales regions ahead of their announced inclusion in the Sustainable Regions Program.
- (2) What objective criteria were used to assess the relative needs of the two new regions.
- (3) Were the needs of other regions assessed by the department for possible inclusion in the Sustainable Regions Program; if so, which regions; if not, why not.
- (4) What role did the department play in establishing the boundaries of the two new regions under the Sustainable Regions Program.
- (5) By year, what sustainable regions funds will be allocated to each region over the next 4 years.
- (6) (a) What action has the Minister taken to establish a sustainable regions advisory committee in each region; and (b) if applicable, what members have been appointed to each advisory committee.
- (7) What deadline has the Minister set for the establishment of local development priorities by each advisory committee.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) to (4) The assessment and identification of these two new Sustainable Regions was undertaken by the Government in the course of developing policy for the 2004 election. Factual material sourced by the Department may have been used in any related analysis.
- (5) Over the four years to 2007-08, \$21 million will be provided for the Western Queensland and Western New South Wales region and \$12 million for the Northern Rivers and North Coast of New South Wales region. Annual allocations for each region have not yet been determined.
- (6) (a) I am currently considering the establishment of a sustainable region advisory committee in each region (b) Not applicable.
- (7) When appointed, one of the first tasks for the sustainable region advisory committees will be undertaking community consultations to determine local development priorities.

**Fuel: Ethanol**

**(Question No. 255)**

**Senator O'Brien** asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 23 December 2004:

- (1) For each of the financial years 2002-03, 2003-04 and 2004-05 to date, what amount has been expended on ethanol production subsidies.
- (2) For each company that has received a subsidy:
  - (a) what subsidy has been paid.
  - (b) what volume of subsidised ethanol has been produced.
  - (c) what feedstock has been used to produce the subsidised ethanol.
  - (d) where are the company's ethanol production facilities located.
  - (e) has the subsidy resulted in increased production; if so, can this increased production be quantified.
  - (f) how has the Commonwealth audited the subsidised production.

**Senator Minchin**—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator's question:

- (1) 2002-03 - \$21,682,940

2003-04 - \$10,883,056

1/7/04 to 31/12/04 - \$3,967,964

Total - \$36,533,960

(2) (a)

Manildra - \$34,659,031

CSR - \$1,427,836

Schumer (Rocky Point) - \$447,093

Total - \$36,533,960

(b)

Manildra - 90,866,033 Litres

CSR - 3,743,376 Litres

Schumer (Rocky Point) - 1,172,150 Litres

Total - 95,781,559 Litres

(c) Manildra produces ethanol from wheat starch. CSR and Schumer (Rocky Point) both produce ethanol from C Molasses.

(d)

Manildra - Bomaderry (NSW)

CSR - Sarina (QLD)

Schumer (Rocky Point) - Woongoolba (QLD)

(e) No, production of fuel ethanol has fallen over the period, largely reflecting a decline in consumer confidence in the fuel ethanol market.

The Government has worked actively with industry stakeholders to address consumer confidence issues through the Ethanol Confidence Working Group including advising on ethanol labelling and on new point of sale information. To coincide with the introduction of ethanol labelling from March 1, 2004 the Federated Chamber of Automotive Industries (FCAI), on behalf of the Ethanol Confidence Working Group, released a list of all vehicles capable of running on E10 blended fuel. This list provides comprehensive advice to consumers on which vehicles can operate satisfactorily on ethanol blends of 10 percent. The Government is committed to maintaining the ethanol confidence working group to bolster consumer confidence in the use of ethanol petrol blends.

(f) The Government has a number of procedures in place to protect itself from fraudulent claims. Each time a producer submits a claim they are contractually required to provide evidence that the ethanol has been produced in Australia from biomass feedstock, entered for home consumption and that fuel excise has been paid.

In support of their application, producers must attach a copy of the Australian Taxation Office Excise Return form that deals with the entry into home consumption of the ethanol for which funding is being claimed and evidence of the electronic funds transfer for the Duty paid on the ethanol referred to in the Excise Return form.

The Department of Industry, Tourism and Resources also receives statements via producers from the Australian Taxation Office (ATO) on the amount of excise paid on fuel ethanol. This information allows the Department to acquit the grants paid under the Ethanol Production Grant with ATO excise records.

The funding agreement between the Commonwealth and the ethanol producers enables the Department to audit and inspect records pertaining to claims for the Ethanol Production Grant and the equipment and facilities used to produce the fuel ethanol at any time.

**Ansett Australia: Employee Entitlements**  
(Question No. 261)

**Senator O'Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 23 December 2004:

With reference to the Special Employee Entitlement Scheme for Ansett Group Employees (SEESA): Will the Minister provide, by financial year, full details of: (a) any costs incurred by the department in relation to the establishment and operation of SEESA and the administration of the Ansett ticket levy; and (b) any payments (including the source of the funds) made to the department in relation to the establishment and operation of SEESA and the administration of the Ansett ticket levy.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

(a) Costs incurred in relation to the establishment and operation of SEESA are a matter for the Department of Employment and Workplace Relations (DEWR). Total costs incurred by DOTARS in relation to the administration of the Ansett ticket levy were:

2001 - 02	2002 - 03	2003 - 04
\$746,032	\$690,763	\$95,304

DEWR reimbursements to DOTARS (by financial year) for the costs the department incurred to administer the Ansett ticket levy were:

2001 - 02	2002 - 03	2003 - 04
\$551,623	\$681,214	\$299,263

**Parliamentary Services: Secretary**  
(Question No. 321)

**Senator Hutchins** asked the President of the Senate, upon notice, on 31 January 2005:

In relation to the process for the appointment of the Secretary, Department of Parliamentary Services:

- (1) When was the position advertised.
- (2) What was the closing date for applications for the position.
- (3) How many applications were received by the closing date.
- (4) Of the applications received by the closing date, how many were from: (a) male applicants; and (b) female applicants.
- (5) Of the applications received by the closing date, how many were from: (a) employees or office holders of the Parliamentary Service; (b) employees or office holders of the Australian Public Service (APS); and (c) individuals outside either the Parliamentary Service or the APS.
- (6) Were any applications accepted or solicited after the closing date; if so, how many.
- (7) If applications were accepted or solicited after the closing date, can the same information be provided in respect of those applications as requested in (4) and (5) above.
- (8) Who prepared the shortlist of applicants to be interviewed.
- (9) Was the field of candidates discussed with or by the then Presiding Officers prior to interviews being held; if so, when and who was present.
- (10) If the field of candidates was discussed with or by the then Presiding Officers prior to interviews occurring, were their senior advisers present when that discussion took place.
- (11) When did interviews take place.

- (12) Who conducted the interviews.
- (13) Did the then Presiding Officers interview any applicants; if so, when and how many.
- (14) Were the then Presiding Officers' senior advisers present at those interviews; if so, why.

**The PRESIDENT**—The answer to the honourable senator's question is as follows:

- (1) 30 August 2003.
- (2) 12 September 2003.
- (3) Five.
- (4) (a) Five; (b) None.
- (5) (a) Two; (b) None; (c) Three.
- (6) Yes; two.
- (7) One female and one male, both employees or office-holders of the Australian Public Service.
- (8) The then Parliamentary Service Commissioner, Mr Andrew Podger, and Ms Helen Williams, AO, Secretary to the Department of Communications, Information Technology and the Arts and previously Parliamentary Service Commissioner.
- (9) No; but the Parliamentary Service Commissioner wrote to the Presiding Officers to provide a progress report on the process.
- (10) Not applicable.
- (11) On various dates in October 2003.
- (12) The then Parliamentary Service Commissioner and Ms Williams.
- (13) Section 59(2) of the Parliamentary Service Act 1999 provides that the Presiding Officers must receive a report on any vacancy in the office of Secretary of a joint parliamentary department from the Parliamentary Service Commissioner before that vacancy is filled. In accordance with the Act, the Parliamentary Service Commissioner provided a report. The then Presiding Officers subsequently interviewed two short-listed candidates, on 24 November 2003.
- (14) Yes; they were present at the Presiding Officers' request, but they did not participate in the interviews.

**Parliament: Joint House Department**  
**(Question No. 322)**

**Senator Hutchins** asked the President of the Senate, upon notice, on 31 January 2005:

- (1) In respect of the former Joint House Department, how many staff were employed in corporate services roles as at: (a) 30 June 2001; (b) 30 June 2002; and (c) 30 June 2003 (include departmental head and support staff, all staff involved in strategic planning and other staff not involved in direct service provision to the Parliament or visitors to the Parliament).
- (2) What were the classifications of those staff.
- (3) What was the average remuneration of those classifications, including superannuation, training costs and other on-costs.

**The PRESIDENT**—The answer to the honourable senator's question is as follows:

- (1) The numbers of staff employed in corporate services roles were:
  - (a) 37
  - (b) 45
  - (c) 41

(2) The classifications were as follows:

Classification	30 June 2001	30 June 2002	30 June 2003
Secretary	1	1	1
SES	1	1	1
PEL2	3	3	3
PEL1	5	6	8
APS6	6	8	7
APS5	4	5	4
APS4	9	11	9
APS3	7	9	7
APS2	1	1	1
Total	37	45	41

(3) The costs were as follows:

Classification	30 June 2001 \$	30 June 2002 \$	30 June 2003 \$
Secretary	176,991	183,993	190,009
SES	122,181	127,068	134,133
PEL2	100,666	104,640	107,465
PEL1	84,927	88,272	90,443
ASP6	66,979	69,606	71,031
APS5	59,530	62,503	63,644
APS4	54,628	56,761	57,672
APS3	49,207	51,123	51,860
APS2	44,338	46,059	46,542

These figures take account of salary, superannuation, annual leave, long service leave and Comcare premiums. No information is available on training costs, or other on-costs such as accommodation or ICT support.

### Parliament: Department of the Parliamentary Reporting Staff

#### (Question No. 323)

**Senator Hutchins** asked the President of the Senate, upon notice, on 31 January 2005:

- (1) In respect of the former Department of the Parliamentary Reporting Staff, how many staff were employed in corporate services roles as at: (a) 30 June 2001; (b) 30 June 2002; and (c) 30 June 2003 (include departmental head and support staff, all staff involved in strategic planning and other staff not involved in direct service provision to the Parliament).
- (2) What were the classifications of those staff.
- (3) What was the average remuneration of those classifications, including superannuation, training costs and other on-costs.

**The PRESIDENT**—The answer to the honourable senator's question is as follows:

- (1) The numbers of staff employed in corporate services roles were:
  - (a) 39.50.
  - (b) 41.50.
  - (c) 40.50.

(2) The classifications were as follows:

Classification	30 June 2001	30 June 2002	30 June 2003
Secretary	0.50	0.50	0.50
SES	2	1	1
SITO A	1	1	1
Principal Editor	1	1	-
SOG B	3	3	3
SOG C	6	8	7
PO 6	6	8	9
PO 5	6	7	7
PO 4	5	8	7
PO 3	8	4	5
ITO 2	1	-	-
Total	39.50	41.50	40.50

(3) The costs were as follows:

Classification	30 June 2001 \$	30 June 2002 \$	30 June 2003 \$
Secretary	88,495	91,997	95,004
SES	134,039	140,578	150,386
SITO A	99,553	103,535	109,230
Principal Editor	91,200	98,772	100,065
SOG B	90,950	94,588	99,790
SOG C	77,382	80,478	84,904
PO 6	64,355	66,929	70,611
PO 5	57,477	59,776	63,064
PO 4	52,494	54,594	57,596
PO 3	47,311	49,204	51,910
ITO 2	64,355	-	-

These figures take account of salary, superannuation, annual leave, long service leave and Comcare premiums. No information is available on training costs, or other on-costs such as accommodation or ICT support.

### **Parliament: Department of the Parliamentary Library**

#### **(Question No. 324)**

**Senator Hutchins** asked the President of the Senate, upon notice, on 31 January 2005:

- (1) In respect of the former Department of the Parliamentary Library, how many staff were employed in corporate services roles as at: (a) 30 June 2001; (b) 30 June 2002; and (c) 30 June 2003 (include departmental head and support staff, all staff involved in strategic planning and other staff not involved in direct service provision to the Parliament).
- (2) What were the classifications of those staff.
- (3) What was the average remuneration of those classifications, including superannuation, training costs and other on-costs.

**The PRESIDENT**—The answer to the honourable senator's question is as follows:

- (1) The numbers of staff employed in corporate services roles were:
  - (a) 18.50.

(b) 13.50.

(c) 13.50.

(2) The classifications were as follows:

Classification	30 June 2001	30 June 2002	30 June 2003
Secretary	0.50	0.50	0.50
SES	1	1	1
PE 2	-	-	1
PE 1	4	3	2
PS 6	4	2	2
PS 5	2	1	1
PS 4	2	1	1
PS 3	3	2	2
PS 2/1	2	3	-
PS 2	-	-	1
PS 1	-	-	2
Total	18.50	13.50	13.50

(3) The costs were as follows:

Classification	30 June 2001 \$	30 June 2002 \$	30 June 2003 \$
Secretary	88,495	91,997	95,004
SES	133,072	137,730	145,733
PE 2	93,614	96,891	100,318
PE 1	77,885	80,611	83,631
PS 6	63,259	65,473	68,115
PS 5	56,162	58,127	60,586
PS 4	50,974	52,758	55,082
PS 3	45,593	47,189	49,374
PS 2/1	36,060	36,807	-
PS 2			44,077
PS 1			38,027

These figures take account of salary, superannuation, annual leave, long service leave and Comcare premiums. No information is available on training costs, or other on-costs such as accommodation or ICT support.