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the Senate and committee hearings are available at

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SITTING DAYS—2005

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

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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

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

The Hon. John Winston Howard MP
The Hon. John Duncan Anderson MP
The Hon. Peter Howard Costello MP
The Hon. Mark Anthony James Vaile MP
Senator the Hon. Robert Murray Hill
The Hon. Alexander John Gosse Downer MP
The Hon. Anthony John Abbott MP
The Hon. Philip Maxwell Ruddock MP
Senator the Hon. Nicholas Hugh Minchin
The Hon. Warren Errol Truss MP
Senator the Hon. Amanda Eloise Vanstone
The Hon. Dr Brendan John Nelson MP
Senator the Hon. Kay Christine Lesley Patterson
The Hon. Ian Elgin Macfarlane MP
The Hon. Kevin James Andrews MP
Senator the Hon. Helen Lloyd Coonan
Senator the Hon. Ian Gordon Campbell

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

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<th>Minister Name</th>
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<td>Minister for Justice and Customs and Manager of Government Business...</td>
<td>Senator the Hon. Christopher Martin Ellison</td>
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<tr>
<td>Minister for Fisheries, Forestry and Conservation</td>
<td>Senator the Hon. Ian Douglas Macdonald</td>
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<tr>
<td>Minister for the Arts and Sport</td>
<td>Senator the Hon. Charles Roderick Kemp</td>
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<tr>
<td>Minister for Human Services</td>
<td>The Hon. Joseph Benedict Hockey MP</td>
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<tr>
<td>Minister for Citizenship and Multicultural Affairs and Deputy...</td>
<td>The Hon. Peter John McGauran MP</td>
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<tr>
<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Malcolm Thomas Brough MP</td>
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<tr>
<td>Special Minister of State</td>
<td>Senator the Hon. Eric Abetz</td>
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<tr>
<td>Minister for Vocational and Technical Education and Minister...</td>
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<td>Minister for Ageing</td>
<td>The Hon. Julie Isabel Bishop MP</td>
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<td>Minister for Small Business and Tourism</td>
<td>The Hon. Frances Esther Bailey MP</td>
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<tr>
<td>Minister for Local Government, Territories and Roads</td>
<td>The Hon. James Eric Lloyd MP</td>
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<td>Minister for Veterans’ Affairs and Minister Assisting the...</td>
<td>The Hon. De-Anne Margaret Kelly MP</td>
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<td>Minister for Workforce Participation</td>
<td>The Hon. Peter Craig Dutton MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Finance and Administration</td>
<td>The Hon. Dr Sharman Nancy Stone MP</td>
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<td>The Hon. Teresa Gambbaro MP</td>
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<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon. Gary Roy Nairn MP</td>
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<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon. Christopher John Pearce MP</td>
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<td>The Hon. John Kenneth Cobb MP</td>
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<tr>
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SHADOW MINISTRY

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

(The above are shadow cabinet ministers)
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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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Thursday, 10 February 2005

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

PETITIONS
The Clerk—A petition has been lodged for presentation as follows:

Trade: Live Animal Exports
To the Honourable President and members of the Senate in Parliament assembled:
The petition of the undersigned protests in the strongest possible terms against the live export of Australian animals for slaughter in other countries.
The live export trade is cruel. Inhumane conditions are inherent to the trade, resulting in high death rates and unacceptable suffering for animals involved.
The live export trade costs jobs. Rural and regional Australians, already suffering under a lengthy drought, can ill afford to send animals overseas for slaughter when there are workers in Australian abattoirs who can perform this work. As long as animals continue to be sent overseas for slaughter, jobs in Australian abattoirs will suffer.
Furthermore, the live export trade is unnecessary. Australia’s export markets in Asia and the Middle East WILL accept meat that has been slaughtered in Australia according to their cultural requirements.
There are currently 123 abattoirs in Australia with an approved Halal program that could slaughter livestock for export to markets that demand Halal procedures.
The live export trade for slaughter is both cruel and unnecessary. Your petitioners request that the Senate act immediately to abolish the live export trade and replace it with an expanded chilled meat trade.
Sincerely
by Senator Bartlett (from 20 citizens).
Petition received.

NOTICES
Presentation
Senator Nettle to move on the next day of sitting:
That the Senate—
(a) notes:
(i) 12 February marked the 58th anniversary of Union Day in Burma which marks the agreement among various nationalities to live together as a union with a guarantee of equality and the right to self-determination,
(ii) that the Committee Representing the People’s Parliament (CRPP) is opposed to the National Convention organised by the Burmese ruling junta, the State Peace and Development Council (SPDC), on 17 February because it lacks the legitimacy and participation of the democratically-elected representatives of the people and major political parties such as the National League for Democracy and ethnic parties,
(iii) United States Secretary of State Condoleezza Rice’s speech naming Burma as one of the ‘outposts of tyranny’ along with Zimbabwe, and
(iv) that 18 members of the Parliament-elect are still in detention under severe conditions;
(b) continues to support the CRPP as the legitimate body working towards the emergence of a parliament of elected representatives according to the 1990 election;
(c) believes that genuine national reconciliation can be achieved through a dialogue between the National League for Democracy, ethnic nationalities and the SPDC; and
(d) calls on the Government to urge the Burmese junta to free Daw Aung San Suu Kyi, U Tin Oo and all political prisoners unconditionally.

Senator Nettle to move on the next day of sitting:
That the following matter be referred to the Legal and Constitutional References Committee for inquiry and report by 15 June 2005:

The detention of Ms Cornelia Rau, with particular reference to:

(a) the circumstances, actions and procedures which resulted in Ms Rau being detained;
(b) how Ms Rau remained unidentified during the period in question;
(c) the adequacy of mental health services provided to Ms Rau and other detainees;
(d) the conditions in Australian immigration detention centres and whether they are having a harmful effect on the mental health of detainees;
(e) the adequacy of legal assistance provided to Ms Rau and other detainees;
(f) the actions of relevant ministers; and
(g) any related matters.

BUSINESS

Rearrangement

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.32 a.m.)—I move:

That the following government business orders of the day be considered from 12.45 p.m. till not later than 2 p.m. today:

No. 4 Family Assistance Legislation Amendment (Adjustment of Certain FTB Child Rates) Bill 2004
No. 5 Australian Sports Commission Amendment Bill 2004 [2005]
No. 6 Financial Framework Legislation Amendment Bill 2004

Question agreed to.

Rearrangement

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.32 a.m.)—I move:

That the order of general business for consideration today be as follows:

(a) general business order of the day no. 5 (Defence Amendment (Parliamentary approval for Australian involvement in overseas conflicts) Bill 2003 [2004]; and
(b) consideration of government documents.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Murray for today, proposing an amendment to the terms of reference for the Legal and Constitutional References Committee inquiry into the effectiveness and appropriateness of the Privacy Act 1988, postponed till 8 March 2005.

Business of the Senate notice of motion no. 2 standing in the name of the Chair of the Rural and Regional Affairs and Transport References Committee (Senator Ridgeway) for today, proposing the reference of a matter to the Rural and Regional Affairs and Transport References Committee, postponed till 7 March 2005.

Business of the Senate notice of motion no. 3 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, proposing the reference of a matter to the Community Affairs References Committee, postponed till 7 March 2005.

CAMBODIA

Senator BROWN (Tasmania) (9.33 a.m.)—I move:

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.

Question agreed to.

ENVIRONMENT: SUSTAINABLE ENERGY USE

Senator ALLISON (Victoria—Leader of the Australian Democrats) (9.34 a.m.)—I move:

That the Senate—
(a) congratulates the Queensland Government on its January 2005 initiative for Queensland’s Parliament House to use power from sustainable energy sources and for 100 other state government buildings to use at least 5 per cent green energy in their daily operations; and
(b) calls on the Federal Government to also promote the use of sustainable power sources and adopt renewable energy for Parliament House, Canberra, and associated government buildings, as soon as possible.

Question agreed to.

COMMITTEES

Community Affairs References Committee

Reference

Senator GEORGE CAMPBELL (New South Wales) (9.34 a.m.)—At the request of Senator Cook, I move:

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,
(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 adjuvant/complementary therapies, and
(iii) the legitimate role of government in the field of less conventional cancer treatment.

Question agreed to.

DEFENCE: COMMEMORATION SERVICES

Senator HARRIS (Queensland) (9.34 a.m.)—by leave—I move the motion as amended:

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 acci-
dents, 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 the 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 De-Anne 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.

Question agreed to.

Senator HARRIS—As foreshadowed yesterday, I seek leave to incorporate in Hansard a copy of the names of those who have lost their lives in peacetime duties.

Leave granted.

The document read as follows—

In Remembrance

* indicates member was female. ** indicates member was married. *** indicates member was a married female

<table>
<thead>
<tr>
<th>Date</th>
<th>Rank</th>
<th>Name</th>
<th>Unit</th>
<th>Location</th>
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<td>10.11.04</td>
<td>Trooper</td>
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<td>RTC-NT, Mt Bundy, NT</td>
<td>Heat illness</td>
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<td>Corporal</td>
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<td>1.11.02</td>
<td>Corporal</td>
<td>D. Frederiksen</td>
<td>386 ECSS, Richmond</td>
<td>Black Mountain, QLD</td>
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<td>Leading Aircrewman</td>
<td>M. Martin**</td>
<td>2 ADFS</td>
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<td>31.8.02</td>
<td>Midshipman</td>
<td>Matthew Lipianin</td>
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<td>Canberra, ACT</td>
<td>Meningococcal Disease</td>
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<td>C. Gurr</td>
<td>HMAS Darwin</td>
<td>Christmas Islands</td>
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<td>Corporal</td>
<td>J. Sturgess</td>
<td>B Sqn 3/4 Cavalry Regiment</td>
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<td>Sapper</td>
<td>A. Morrison**</td>
<td>Army Alpine Association</td>
<td>Yosemite National Park, USA</td>
<td>Rock climbing fall during adventurous training.</td>
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<td>Flight Lieutenant</td>
<td>A. Short**</td>
<td>6 Squadron</td>
<td>Malaysia</td>
<td>F111 Crash</td>
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<td>18.4.99</td>
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<td>S. Hobbs**</td>
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<td>Private</td>
<td>Andrew Watt</td>
<td>D Company, 1 RAR</td>
<td>Butterworth, Malaysia</td>
<td>Grenade Range Accident</td>
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<td>5.5.98</td>
<td>Midshipman</td>
<td>M. Pelly*</td>
<td>HMAS Westralia</td>
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<td>Petty Officer</td>
<td>S. Smith</td>
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<td>Lance Corporal</td>
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<td>Captain</td>
<td>Brendan Casey</td>
<td>1 Battalion, RAR</td>
<td>Ex Tandem Thrust, Shoal Water Bay, QLD</td>
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<td>?</td>
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<td>A. Constantini-dis</td>
<td>Special Air Service Regiment</td>
<td>Townsville, QLD</td>
<td>Blackhawk Crash</td>
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<td>12.6.96</td>
<td>Corporal</td>
<td>M.J. Bird</td>
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<td>M. Avedissian</td>
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<tr>
<td>12.6.96</td>
<td>Sergeant</td>
<td>H.W. Ellis</td>
<td>Special Air Service Regiment</td>
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<tr>
<td>12.6.96</td>
<td>Captain</td>
<td>T.J. Stevens</td>
<td>Special Air Service Regiment</td>
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<tr>
<td>14.5.96</td>
<td>Signaller</td>
<td>L.R. Martin</td>
<td>Special Air Service Regiment</td>
<td>Bindoon, WA</td>
<td>Parachuting Accident</td>
</tr>
<tr>
<td>1994</td>
<td>Sergeant</td>
<td>Tony Moriarty</td>
<td>D Troop, The Pilbara Regiment</td>
<td>Great Sandy Desert, WA</td>
<td>Landrover Rollover</td>
</tr>
<tr>
<td>13.7.94</td>
<td>Trooper</td>
<td>T.W. Humphreys</td>
<td>2nd Cavalry Regiment</td>
<td>Timber Creek, NT</td>
<td>Landrover Rollover</td>
</tr>
<tr>
<td>21.5.93</td>
<td>Corporal</td>
<td>G.F. Holland</td>
<td>Special Air Service Regiment</td>
<td>Swanbourne, WA</td>
<td>Died during Training</td>
</tr>
<tr>
<td>23.9.93</td>
<td>Sergeant</td>
<td>Rutherford</td>
<td>5/7 Bn, Royal Australian Regiment</td>
<td>Malaysia</td>
<td>Truck and Bus Collision</td>
</tr>
<tr>
<td>23.9.93</td>
<td>Corporal</td>
<td>Burnett</td>
<td>5/7 Bn, Royal Australian Regiment</td>
<td>Malaysia</td>
<td>Truck and Bus Collision</td>
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<td>23.9.93</td>
<td>Corporal</td>
<td>Murphy**</td>
<td>5/7 Bn, Royal Australian Regiment</td>
<td>Malaysia</td>
<td>Truck and Bus Collision</td>
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<tr>
<td>Date</td>
<td>Rank</td>
<td>Name</td>
<td>Unit</td>
<td>Location</td>
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<td>23.9.93</td>
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<td>Wiffen**</td>
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<td>Truck and Bus Collision</td>
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<td>23.9.93</td>
<td>Lance Corporal</td>
<td>O’Rouke**</td>
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<td>Malaysia</td>
<td>Truck and Bus Collision</td>
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<tr>
<td>13.9.93</td>
<td>Flight Lieutenant</td>
<td>J. McNess</td>
<td>?</td>
<td>Geyra, NSW</td>
<td>F111 Crash</td>
</tr>
<tr>
<td>13.9.93</td>
<td>Flight Lieutenant</td>
<td>M. Cairns-Cowan</td>
<td>?</td>
<td>Geyra, NSW</td>
<td>F111 Crash</td>
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<tr>
<td>9.12.92</td>
<td>Sergeant</td>
<td>P.R. Rench</td>
<td>Special Air Service Regiment</td>
<td>Bass Strait, VIC</td>
<td>Died During Dive in Bass Strait</td>
</tr>
<tr>
<td>26.5.92</td>
<td>Private</td>
<td>A. Cave</td>
<td>3 Bn (Para), Royal Australian Regiment</td>
<td>Holsworthy</td>
<td>Shot by Steyr during Live Fire Training</td>
</tr>
<tr>
<td>7.2.92</td>
<td>Apprentice</td>
<td>Ford</td>
<td>Army College of TAFE, Bonegilla, VIC</td>
<td>Bonegilla</td>
<td>Drowned</td>
</tr>
<tr>
<td>1991</td>
<td>Corporal</td>
<td>S.J. Daley</td>
<td>Special Air Service Regiment</td>
<td>Nowra, NSW</td>
<td>Pilatus Porter Crash</td>
</tr>
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<td>27.6.90</td>
<td>Private</td>
<td>J.P. Wilts</td>
<td>5/7 Bn, Royal Australian Regiment</td>
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<td>Heatstroke</td>
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<tr>
<td>1989</td>
<td>Seaman</td>
<td>J. Solomon</td>
<td></td>
<td>Singapore</td>
<td>Death by Misadventure</td>
</tr>
<tr>
<td>10.2.89</td>
<td>Private</td>
<td>P.B. Curtiss</td>
<td>89 Battalion, RAR</td>
<td>Malaysia</td>
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<tr>
<td>25.10.88</td>
<td>Trooper</td>
<td>R.J. Slade</td>
<td>Armoured Centre</td>
<td>Puckapunyal, VIC</td>
<td>M113A1 APC Rollover</td>
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<td>25.10.88</td>
<td>Trooper</td>
<td>D.E. Stanley</td>
<td>Armoured Centre</td>
<td>Puckapunyal, VIC</td>
<td>M113A1 APC Rollover</td>
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<td>3.8.87</td>
<td>Able Seaman</td>
<td>Hugh Markrow</td>
<td>HMAS Otoma (Sub)</td>
<td>Sydney Coast</td>
<td>Submarine dived while topside</td>
</tr>
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<td>3.8.87</td>
<td>Seaman</td>
<td>Damien Humphries</td>
<td>HMAS Otoma (Sub)</td>
<td>Sydney Coast</td>
<td>Submarine dived while topside</td>
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<td>2.4.87</td>
<td>Flight Lieutenant</td>
<td>M. Fallon</td>
<td>6 Squadron</td>
<td>Tenterfield, NSW</td>
<td>F111 Crash</td>
</tr>
<tr>
<td>2.4.87</td>
<td>Flying Officer</td>
<td>W. Pike</td>
<td>6 Squadron</td>
<td>Tenterfield, NSW</td>
<td>F111 Crash</td>
</tr>
<tr>
<td>9.7.86</td>
<td>Sergeant</td>
<td>R.G. Murray</td>
<td>1st Armoured Regiment</td>
<td>Puckapunyal, VIC</td>
<td>Leopard Tank Rollover</td>
</tr>
<tr>
<td>23.6.86</td>
<td>Warrant Officer</td>
<td>F.J. Tattersall</td>
<td>1st/15th Royal New South Wales Lancers</td>
<td>Singleton, NSW</td>
<td>M113 APC Accident</td>
</tr>
<tr>
<td>28.1.86</td>
<td>Flight Lieutenant</td>
<td>M. Erskine</td>
<td>1 Squadron</td>
<td></td>
<td>Crashed at Sea</td>
</tr>
<tr>
<td>28.1.86</td>
<td>Captain</td>
<td>G.s. Angell</td>
<td>1 Squadron (on exchange from USAF)</td>
<td></td>
<td>Crashed at Sea</td>
</tr>
<tr>
<td>7.6.84</td>
<td>Trooper</td>
<td>A.K. Patterson</td>
<td>1st Armoured Regiment</td>
<td>Puckapunyal, VIC</td>
<td>Leopard Tank Accident</td>
</tr>
<tr>
<td>24.7.82</td>
<td>Lance Corporal</td>
<td>P.W. Rawlings</td>
<td>Special Air Service Regiment</td>
<td>Perth, WA</td>
<td>Parachute Malfunction</td>
</tr>
<tr>
<td>2.7.82</td>
<td>Lieutenant</td>
<td>A.J. Massey</td>
<td>1st Armoured Regiment</td>
<td>Puckapunyal, VIC</td>
<td>M113 APC Accident</td>
</tr>
<tr>
<td>16.4.82</td>
<td>Trooper</td>
<td>D.H. O’Callaghan</td>
<td>Special Air Service Regiment</td>
<td>Bass Strait, VIC</td>
<td>Died During Dive in Bass Strait</td>
</tr>
<tr>
<td>3.4.82</td>
<td>Lieutenant</td>
<td>Murray Jorgenson**</td>
<td></td>
<td>Puckapunyal, VIC</td>
<td>M113A1 APC Rollover</td>
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<td>7.7.81</td>
<td>Signaller</td>
<td>G.K. Fry</td>
<td>Special Air Service Regiment</td>
<td>Philippines</td>
<td>Killed in USAF C130 Crash</td>
</tr>
<tr>
<td>7.7.81</td>
<td>Sergeant</td>
<td>E.M. Millar</td>
<td>Special Air Service Regiment</td>
<td>Philippines</td>
<td>Killed in USAF C130 Crash</td>
</tr>
<tr>
<td>7.7.81</td>
<td>Sergeant</td>
<td>M. Tonkin</td>
<td>Special Air Service Regiment</td>
<td>Philippines</td>
<td>Killed in USAF C130 Crash</td>
</tr>
<tr>
<td>10.10.80</td>
<td>Lance Corporal</td>
<td>P.C. Williamson</td>
<td>Special Air Service Regiment</td>
<td>Swanbourne, WA</td>
<td>Accidentally Shot During CT Training</td>
</tr>
<tr>
<td>Date</td>
<td>Rank</td>
<td>Name</td>
<td>Unit</td>
<td>Location</td>
<td>Remark</td>
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<td>7.7.79</td>
<td>Private</td>
<td></td>
<td>6 Bn, Royal Australian Regiment</td>
<td>New Zealand</td>
<td>Hit by M113A1 APC</td>
</tr>
<tr>
<td>31.8.79</td>
<td>Chief Petty Officer</td>
<td>Jackson</td>
<td>HMAS Kimbla</td>
<td>Port Phillip Bay, Vic</td>
<td>Lost Overboard</td>
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<tr>
<td>25.11.78</td>
<td>Wing Commander</td>
<td>Peter Mahood</td>
<td>9 Squadron</td>
<td>S.A</td>
<td>El Alamiem Camp Chopper Crash</td>
</tr>
<tr>
<td>25.11.78</td>
<td>Sergeant</td>
<td>Steve Milsted</td>
<td>9 Squadron</td>
<td>S.A</td>
<td>El Alamiem Camp Chopper Crash</td>
</tr>
<tr>
<td>25.11.78</td>
<td>Sergeant</td>
<td>Paul Gallagher</td>
<td>9 Squadron</td>
<td>S.A</td>
<td>El Alamiem Camp Chopper Crash</td>
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<tr>
<td>25.11.78</td>
<td>Aircraftman</td>
<td>Barry Johns</td>
<td>9 Squadron</td>
<td>S.A</td>
<td>El Alamiem Camp</td>
</tr>
<tr>
<td>25.11.78</td>
<td>Flight Officer</td>
<td>Paul Mason</td>
<td>9 Squadron</td>
<td>S.A</td>
<td>El Alamiem Camp Chopper Crash</td>
</tr>
<tr>
<td>16.11.78</td>
<td>Lance Corporal</td>
<td>L. Mills</td>
<td>6 Battalion, RAR</td>
<td>Malaysia</td>
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<tr>
<td>29.9.77</td>
<td>Squadron Leader</td>
<td>J. Holt</td>
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<td></td>
<td>F111 Crash</td>
</tr>
<tr>
<td>22.6.76</td>
<td>Corporal</td>
<td>L.A. Mealin</td>
<td>Special Air Service Regiment</td>
<td>Fremantle, WA</td>
<td>Fell Down Coal Chute During Exercise</td>
</tr>
<tr>
<td>4.5.76</td>
<td>Corporal</td>
<td>D.R. Abbott</td>
<td>Special Air Service Regiment</td>
<td>Cunderdin, WA</td>
<td>Parachuting Accident</td>
</tr>
<tr>
<td>15.4.76</td>
<td>2nd Lieutenant</td>
<td>G.J. Murphy</td>
<td>46th/9th Prince of Wales Light Horse</td>
<td>Murrayville, VIC</td>
<td>Landrover Rollover</td>
</tr>
<tr>
<td>25.12.74</td>
<td>Petty Officer</td>
<td>Leslie Catton</td>
<td>HMAS Arrow</td>
<td>Stokes Wharf, Darwin, NT</td>
<td>Drowned during Cyclone Tracey</td>
</tr>
<tr>
<td>25.12.74</td>
<td>Able Seaman</td>
<td>Ian Rennie</td>
<td>HMAS Arrow</td>
<td>Stokes Wharf, Darwin, NT</td>
<td>Drowned during Cyclone Tracey</td>
</tr>
<tr>
<td>10.73</td>
<td>2nd Lieutenant</td>
<td>K. Shoppe</td>
<td>Australian Aviation</td>
<td>Mount Willhiem, PNG</td>
<td>Chopper crash working with 4 Fd Survey Sqn</td>
</tr>
<tr>
<td>10.7.73</td>
<td>Corporal</td>
<td>L. B. Bright</td>
<td>4th Cavalry Regiment</td>
<td>Roma, QLD</td>
<td>M113 APC Accident</td>
</tr>
<tr>
<td>10.10.72</td>
<td>Sergeant</td>
<td>H. Green</td>
<td>Special Air Service Regiment</td>
<td>Carnarvon, WA</td>
<td>Land Rover Rollover</td>
</tr>
<tr>
<td>24.8.69</td>
<td>Sergeant</td>
<td>J.R. Graffon</td>
<td>Special Air Service Regiment</td>
<td>Pearce, WA</td>
<td>Parachuting Accident</td>
</tr>
<tr>
<td>12.8.69</td>
<td>Lieutenant</td>
<td>C.G. Eilor</td>
<td>Special Air Service Regiment</td>
<td>Pearce, WA</td>
<td>Parachuting Accident</td>
</tr>
<tr>
<td>7.6.69</td>
<td>Sergeant</td>
<td>B.J. Smith</td>
<td>Armoured Centre</td>
<td>Avenal, VIC</td>
<td>M113 APC Accident</td>
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<td>7.6.69</td>
<td>Trooper</td>
<td>J.S.P. Oseiak</td>
<td>Armoured Centre</td>
<td>Avenal, VIC</td>
<td>M113 APC Accident</td>
</tr>
<tr>
<td>16.2.69</td>
<td>Sergeant</td>
<td>B. Holloway</td>
<td>3rd/9th South Australian Mounted Rifles</td>
<td>Swan Reach, SA</td>
<td>Ferret Scout Car Accident</td>
</tr>
<tr>
<td>1969</td>
<td>Flight Officer</td>
<td>I. Cooper</td>
<td></td>
<td></td>
<td>East Sale, VIClont</td>
</tr>
<tr>
<td>1960/69</td>
<td>Mechanical Engineer</td>
<td>G. Bogg</td>
<td>RAN 8/ship</td>
<td>Manus Is</td>
<td>Died of MVA Injuries</td>
</tr>
<tr>
<td>23.11.68</td>
<td>Trooper</td>
<td>J.D. Walsh</td>
<td>46th/19th Prince of Wales Light Horse</td>
<td>Currargong State Forest, VIC</td>
<td>Slagbound Armoured Car Accident</td>
</tr>
<tr>
<td>14.6.68</td>
<td>Private</td>
<td>T.W. Irwin</td>
<td>Special Air Service Regiment</td>
<td>Collie, WA</td>
<td>Drowned in Collie River During Training</td>
</tr>
<tr>
<td>17.8.65</td>
<td>Sergeant</td>
<td>R.F. Morrison</td>
<td>1st Armoured Regiment</td>
<td>Puckapunyal, VIC</td>
<td>Centurion Tank Accident</td>
</tr>
<tr>
<td>10.9.64</td>
<td>Trooper</td>
<td>M.W.S. Mitchell</td>
<td>10th Light Horse</td>
<td>Cervantes, WA</td>
<td>Ferret Scout Car Accident</td>
</tr>
<tr>
<td>10.2.64</td>
<td>Captain</td>
<td>D.H. Stevens</td>
<td>HMAS Voyager</td>
<td>S.E Sydney, NSW</td>
<td>Naval Collision</td>
</tr>
<tr>
<td>Date</td>
<td>Rank</td>
<td>Name</td>
<td>Unit</td>
<td>Location</td>
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<tr>
<td>10.2.64</td>
<td>Commander</td>
<td>E.W Tapp</td>
<td>HMAS Voyager</td>
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<td>Naval Collision</td>
</tr>
<tr>
<td>10.2.64</td>
<td>Lieutenant Commander</td>
<td>I.A.G Maegregory</td>
<td>HMAS Voyager</td>
<td>S.E Sydney, NSW</td>
<td>Naval Collision</td>
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<tr>
<td>10.2.64</td>
<td>Lieutenant</td>
<td>B.L Carrington</td>
<td>HMAS Voyager</td>
<td>S.E Sydney, NSW</td>
<td>Naval Collision</td>
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<tr>
<td>10.2.64</td>
<td>Lieutenant</td>
<td>E.A. Brooks - RN</td>
<td>HMAS Voyager</td>
<td>S.E Sydney, NSW</td>
<td>Naval Collision</td>
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<tr>
<td>10.2.64</td>
<td>Lieutenant</td>
<td>H.D. Cook</td>
<td>HMAS Voyager</td>
<td>S.E Sydney, NSW</td>
<td>Naval Collision</td>
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<tr>
<td>10.2.64</td>
<td>Lieutenant</td>
<td>J.L. Dowling</td>
<td>HMAS Voyager</td>
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<td>Naval Collision</td>
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<tr>
<td>10.2.64</td>
<td>Lieutenant</td>
<td>D.H.M. Price RN</td>
<td>HMAS Voyager</td>
<td>S.E Sydney, NSW</td>
<td>Naval Collision</td>
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<td>10.2.64</td>
<td>Sub-Lieutenant</td>
<td>E.S. Beavis</td>
<td>HMAS Voyager</td>
<td>S.E Sydney, NSW</td>
<td>Naval Collision</td>
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<tr>
<td>10.2.64</td>
<td>Acting Sub-Lieutenant</td>
<td>J.S. Davies</td>
<td>HMAS Voyager</td>
<td>S.E Sydney, NSW</td>
<td>Naval Collision</td>
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<tr>
<td>10.2.64</td>
<td>Midshipman</td>
<td>B.C.L. Lindsey</td>
<td>HMAS Voyager</td>
<td>S.E Sydney, NSW</td>
<td>Naval Collision</td>
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<tr>
<td>10.2.64</td>
<td>Midshipman</td>
<td>K.F. Mitten, AM</td>
<td>HMAS Voyager</td>
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<td>Naval Collision</td>
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<td>10.2.64</td>
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<td>R.W. Maonder</td>
<td>HMAS Voyager</td>
<td>S.E Sydney, NSW</td>
<td>Naval Collision</td>
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<td>F.J. Morgan</td>
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<td>Naval Collision</td>
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<tr>
<td>10.2.64</td>
<td>Chief Petty Officer</td>
<td>J. Rogers, GC, DSM</td>
<td>HMAS Voyager</td>
<td>S.E Sydney, NSW</td>
<td>Naval Collision</td>
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<tr>
<td>10.2.64</td>
<td>Chief Petty Officer</td>
<td>L.D. Vincent</td>
<td>HMAS Voyager</td>
<td>S.E Sydney, NSW</td>
<td>Naval Collision</td>
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<tr>
<td>10.2.64</td>
<td>Petty Officer</td>
<td>J.B. Guy</td>
<td>HMAS Voyager</td>
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<td>Naval Collision</td>
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<td>10.2.64</td>
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<td>E.K. Garcia</td>
<td>HMAS Voyager</td>
<td>S.E Sydney, NSW</td>
<td>Naval Collision</td>
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<td>10.2.64</td>
<td>Communications Yeoman</td>
<td>K.B. Cullen</td>
<td>HMAS Voyager</td>
<td>S.E Sydney, NSW</td>
<td>Naval Collision</td>
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<td>10.2.64</td>
<td>Petty Officer</td>
<td>D.R. Macartney</td>
<td>HMAS Voyager</td>
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<td>Naval Collision</td>
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<td>10.2.64</td>
<td>Engine Room Artificer</td>
<td>L.J. Leeson</td>
<td>HMAS Voyager</td>
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<td>Naval Collision</td>
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<td>10.2.64</td>
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<td>Mr. H.S. Parker</td>
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<td>22.10.63</td>
<td>Midshipman</td>
<td>P. Mulvany</td>
<td>HMAS Sydney</td>
<td>Hook &amp; Hayman Is, QLD</td>
<td>Missing at Sea</td>
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<tr>
<td>22.10.63</td>
<td>Midshipman</td>
<td>B. Mayger</td>
<td>HMAS Sydney</td>
<td>Hook &amp; Hayman Is, QLD</td>
<td>Missing at Sea</td>
</tr>
<tr>
<td>22.10.63</td>
<td>Midshipman</td>
<td>D. Sanders</td>
<td>HMAS Sydney</td>
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<td>Body found in Whaler</td>
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<tr>
<td>22.10.63</td>
<td>Midshipman</td>
<td>G. Pierce</td>
<td>HMAS Sydney</td>
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<td>14.10.62</td>
<td>Trooper</td>
<td>A.M. Jordan</td>
<td>1st Armoured Regi-</td>
<td>Singleton, NSW</td>
<td>Ferret Scout Car Accident</td>
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<td>16.6.61</td>
<td>Pilot</td>
<td>Bill Bowden</td>
<td>?</td>
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<td>Dakota Aircraft Crash</td>
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<td>16.6.61</td>
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<td>Peter Davis</td>
<td>?</td>
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<td>Dakota Aircraft Crash</td>
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<tr>
<td>16.6.61</td>
<td>?</td>
<td>John Cook</td>
<td>?</td>
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<td>Bob White</td>
<td>?</td>
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<td>1.5.61</td>
<td>?</td>
<td>D.J. Park</td>
<td>HMAS Vendetta</td>
<td>?</td>
<td>Lost at Sea</td>
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<td>11.10.60</td>
<td>Ordinary Seaman</td>
<td>Robert Herd</td>
<td>HMAS Woomera</td>
<td>Coast off Sydney, NSW</td>
<td>Explosion &amp; Sank</td>
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<tr>
<td>11.10.60</td>
<td>Able Seaman</td>
<td>Bryant Baker</td>
<td>HMAS Woomera</td>
<td>Coast off Sydney, NSW</td>
<td>Explosion &amp; Sank</td>
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<td>5.8.60</td>
<td>Private</td>
<td>A.F. Smith</td>
<td>Special Air Service Regiment</td>
<td>Avon Valley, WA</td>
<td>Drowned in Avon River During Training</td>
</tr>
<tr>
<td>5.11.59</td>
<td>Trooper</td>
<td>R.L.L. Evans</td>
<td>1st/15th Royal New South Wales Lancers</td>
<td>Peckapumal, VIC</td>
<td>Centurion Tank, Accidentally Shot</td>
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<td>4.2.59</td>
<td>Squadron Leader</td>
<td>Geoffrey Cullen**</td>
<td>11 Squadron</td>
<td>Hawkesbury River, NSW</td>
<td>Aircraft (Lockheed Neptune) Crashed into River Bank</td>
</tr>
<tr>
<td>Date</td>
<td>Rank</td>
<td>Name</td>
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<td>Location</td>
<td>Remark</td>
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<td>4.2.59</td>
<td>Squadron Leader</td>
<td>Joseph McDonald, AFC</td>
<td>11 Squadron</td>
<td>Hawkesbury River, NSW</td>
<td>Aircraft (Lockheed Neptune) Crashed into River Bank</td>
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<tr>
<td>4.2.59</td>
<td>Flight Lieutenant</td>
<td>Robert De Russell Kydd**</td>
<td>11 Squadron</td>
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<td>Aircraft (Lockheed Neptune) Crashed into River Bank</td>
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<tr>
<td>4.2.59</td>
<td>Flying Officer</td>
<td>Frederick Wood**</td>
<td>11 Squadron</td>
<td>Hawkesbury River, NSW</td>
<td>Aircraft (Lockheed Neptune) Crashed into River Bank</td>
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<tr>
<td>4.2.59</td>
<td>Pilot Officer</td>
<td>George Holmes</td>
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<tr>
<td>4.2.59</td>
<td>Pilot Officer</td>
<td>Terence O’Sullivan**</td>
<td>11 Squadron</td>
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<td>4.2.59</td>
<td>Warrant Officer</td>
<td>Vincent McCarthy</td>
<td>11 Squadron</td>
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<tr>
<td>4.2.59</td>
<td>Sergeant</td>
<td>John Rock</td>
<td>11 Squadron</td>
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<td>27.3.54</td>
<td>Trooper</td>
<td>W.P.J. Lennie</td>
<td>3rd/9th South Australian Mounted Rifles</td>
<td>Unley, SA</td>
<td>Staghound Armoured Car Accident</td>
</tr>
<tr>
<td>3.2.52</td>
<td>Captain</td>
<td>J.F. Kiddle</td>
<td>8th Royal Tank Regiment (Attached)</td>
<td>Paderborn, Germany</td>
<td>Staff Car Accident</td>
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<tr>
<td>26.4.57</td>
<td>Able Seaman</td>
<td>Spooner</td>
<td>HMAS Tobruk</td>
<td>Nth of Pulau Tsoman</td>
<td>Struck by Star Shell Case</td>
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<tr>
<td>8.3.54</td>
<td>Corporal</td>
<td>N. Moran</td>
<td>A Squadron, 15th Northern River Lancers</td>
<td>Stockton Bight, NSW</td>
<td>Drowned during amphibious training</td>
</tr>
<tr>
<td>8.3.54</td>
<td>Trooper</td>
<td>N. Mornement</td>
<td>A Squadron, 15th Northern River Lancers</td>
<td>Stockton Bight, NSW</td>
<td>Drowned during amphibious training</td>
</tr>
<tr>
<td>8.3.54</td>
<td>Private</td>
<td>R. Blackie</td>
<td>16th Company, Royal Aust Army Services Corp</td>
<td>Stockton Bight, NSW</td>
<td>Drowned during amphibious training</td>
</tr>
<tr>
<td>25.1.50</td>
<td>Stoker Mechanic</td>
<td>J. Bolton</td>
<td>HMAS Tarakan</td>
<td>Garden Is, NSW</td>
<td>Fuel Explosion</td>
</tr>
<tr>
<td>25.1.50</td>
<td>Stoker</td>
<td>J. Robertson</td>
<td>HMAS Tarakan</td>
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<td>Fuel Explosion</td>
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<tr>
<td>25.1.50</td>
<td>Able Seaman</td>
<td>F. Manning</td>
<td>HMAS Tarakan</td>
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<td>Fuel Explosion</td>
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<tr>
<td>25.1.50</td>
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<td>F. Tysoe</td>
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<tr>
<td>25.1.50</td>
<td>Leading Hand Fitter</td>
<td>R. Saunders</td>
<td>HMAS Tarakan</td>
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<td>25.1.50</td>
<td>Cook</td>
<td>D. Graydon</td>
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<tr>
<td>25.1.50</td>
<td>ERA II</td>
<td>W.L. Hoy</td>
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<td>D.D. Messenger</td>
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</tr>
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<td>13.9.47</td>
<td>Able Seaman</td>
<td>J.H. Hyland</td>
<td>HMAS Warrnambool</td>
<td>Cockburn Reef, Nth of Cains, QLD</td>
<td>Ship Hit a Mine</td>
</tr>
<tr>
<td>13.9.47</td>
<td>Stoker</td>
<td>A.G. Garrett</td>
<td>HMAS Warrnambool</td>
<td>Cockburn Reef, Nth of Cains, QLD</td>
<td>Ship Hit a Mine</td>
</tr>
<tr>
<td>13.9.47</td>
<td>Signalman</td>
<td>N.L. Lott</td>
<td>HMAS Warrnambool</td>
<td>Cockburn Reef, Nth of Cains, QLD</td>
<td>Ship Hit a Mine</td>
</tr>
<tr>
<td>Date</td>
<td>Rank</td>
<td>Name</td>
<td>Unit</td>
<td>Location</td>
<td>Remark</td>
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<tr>
<td>13.9.47</td>
<td>Able Seaman</td>
<td>Donald Figg</td>
<td>HMAS Warnambool</td>
<td>Cockburn Reef, Nth of Cairns, QLD</td>
<td>Ship Hit a Mine</td>
</tr>
<tr>
<td>16.3.47</td>
<td>Stoker II</td>
<td>Norman Pickett</td>
<td>HMAS Barwon</td>
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<td>Accident</td>
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<tr>
<td>2.3.47</td>
<td>Petty Officer</td>
<td>Andrew Shaw</td>
<td>HMAS Tanakai</td>
<td>?</td>
<td>Motor Accident</td>
</tr>
<tr>
<td>26.12.46</td>
<td>Able Seaman</td>
<td>William Bromley</td>
<td>HMAS Diamantina</td>
<td>?</td>
<td>Accident</td>
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<tr>
<td>30.10.46</td>
<td>Ordinary Seaman</td>
<td>Donald Egglestone</td>
<td>HMAS Quiberon</td>
<td>?</td>
<td>Lost Overboard</td>
</tr>
<tr>
<td>26.9.46</td>
<td>Private</td>
<td>Kevin Foley</td>
<td>3 Adv Ord Depot</td>
<td>Australia</td>
<td>Accidentally Killed</td>
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<tr>
<td>9.9.46</td>
<td>Able Seaman</td>
<td>William Williams</td>
<td>HMAS Westralia</td>
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<td>Accident</td>
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<tr>
<td>4.7.46</td>
<td>Steward</td>
<td>Charles Blight</td>
<td>HMAS Platypus</td>
<td>?</td>
<td>Drowned</td>
</tr>
<tr>
<td>28.6.46</td>
<td>Sergeant</td>
<td>Francis Hocking</td>
<td>1 Grenade Battalion</td>
<td>Australia</td>
<td>Accidentally Killed</td>
</tr>
<tr>
<td>12.6.46</td>
<td>Signaller</td>
<td>William Brown</td>
<td>8 Military District Signallers</td>
<td>New Guinea</td>
<td>Accidentally Killed</td>
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<tr>
<td>10.5.46</td>
<td>Leading Signalman</td>
<td>Charles Deves</td>
<td>HMAS Warramunga</td>
<td>?</td>
<td>Accidentally Killed</td>
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<td>23.1.46</td>
<td>Leading Stoker</td>
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<td>HMAS Quiberon</td>
<td>?</td>
<td>Drowned</td>
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<td>16.1.46</td>
<td>Ordinary Seaman</td>
<td>John Ward</td>
<td>HMAS Arunta</td>
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<td>Accident</td>
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<td>1.1.46</td>
<td>Ordinary Seaman</td>
<td>Raymond Dodgson</td>
<td>HMAS Alama</td>
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<td>Missing Drowned</td>
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<td>20.12.45</td>
<td>T/Engineer Lieutenant</td>
<td>David Thomas</td>
<td>HMAS Heros</td>
<td>?</td>
<td>Illness</td>
</tr>
<tr>
<td>1.12.45</td>
<td>Signalman</td>
<td>Alfred Nott</td>
<td>HMAS Toowoomba</td>
<td>?</td>
<td>Illness</td>
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<td>10.11.45</td>
<td>Petty Officer</td>
<td>Walter Near</td>
<td>HMAS Birchgrove Park</td>
<td>?</td>
<td>? Accident</td>
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<tr>
<td>29.10.45</td>
<td>Chief ERA</td>
<td>Francis Joyce</td>
<td>HMAS Australia</td>
<td>?</td>
<td>Illness</td>
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<tr>
<td>11.6.45</td>
<td>Trooper</td>
<td>M.J. Ronan</td>
<td>2nd/1st Armoured Battalion Recce Squadron</td>
<td>Nerang, QLD</td>
<td>Matilda Tank (Flame-thrower) Accident</td>
</tr>
<tr>
<td>14.3.45</td>
<td>Lance Corporal</td>
<td>B.N. Evans</td>
<td>1st Australian Army Tank Battalion</td>
<td>Wasp Creek, QLD</td>
<td>Matilda Tank Accident</td>
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<tr>
<td>14.3.45</td>
<td>Trooper</td>
<td>J.M. McNamee</td>
<td>1st Australian Army Tank Battalion</td>
<td>Wasp Creek, QLD</td>
<td>Matilda Tank Accident</td>
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<tr>
<td>7.3.45</td>
<td>?</td>
<td>?</td>
<td>HMAS Napier</td>
<td>Bass Strait, VIC</td>
<td>Lost Overboard</td>
</tr>
<tr>
<td>7.3.45</td>
<td>?</td>
<td>?</td>
<td>HMAS Napier</td>
<td>Bass Strait, VIC</td>
<td>Lost Overboard</td>
</tr>
<tr>
<td>24.4.44</td>
<td>Sergeant</td>
<td>C.W. Dunning</td>
<td>?</td>
<td>Fog Bay, 40 miles SW Darwin, NT</td>
<td>Altitude Testing Crash</td>
</tr>
<tr>
<td>1.6.43</td>
<td>Lance Corporal</td>
<td>L.F. Greenham</td>
<td>1st Australian Army Tank Battalion</td>
<td>Brohe Island, QLD</td>
<td>Matilda Tank Drowning</td>
</tr>
<tr>
<td>25.4.43</td>
<td>Lance Corporal</td>
<td>A.W. Fenn</td>
<td>1st Australian Army Tank Battalion</td>
<td>Goulburn, VIC</td>
<td>Drowned in Goulburn River, Assault Boat</td>
</tr>
<tr>
<td>4.11.42</td>
<td>Sergeant</td>
<td>Norman Clark</td>
<td>?</td>
<td>?</td>
<td>Lockheed Hudson A16-173 Crash</td>
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<tr>
<td>4.11.42</td>
<td>Sergeant</td>
<td>Joseph Iredell</td>
<td>?</td>
<td>?</td>
<td>Lockheed Hudson A16-173 Crash</td>
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<tr>
<td>Date</td>
<td>Rank</td>
<td>Name</td>
<td>Unit</td>
<td>Location</td>
<td>Remark</td>
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<td>6.9.42</td>
<td>Trooper</td>
<td>R.H. Powell</td>
<td>1st Australian Army Tank Battalion</td>
<td>Greta, NSW</td>
<td>?</td>
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<tr>
<td>14.4.42</td>
<td>Sergeant</td>
<td>B.E. Walker</td>
<td>?</td>
<td>Gunning, NSW</td>
<td>Anason Aircraft No AX420 Crash Nth Gunning</td>
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<tr>
<td>14.4.42</td>
<td>Leading Aircrew-man</td>
<td>H.M. Sauerbier</td>
<td>?</td>
<td>Gunning, NSW</td>
<td>Anason Aircraft No AX420 Crash Nth Gunning</td>
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<td>14.4.42</td>
<td>Leading Aircrew</td>
<td>A. Sidorenko</td>
<td>?</td>
<td>Gunning, NSW</td>
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<tr>
<td>6.12.1919</td>
<td>Stoker 2nd Class</td>
<td>Thomas Berry</td>
<td>HMAS Sydney</td>
<td></td>
<td>Accidentally Drowned</td>
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<tr>
<td>1.7.1919</td>
<td>Driver</td>
<td>Richard Blackburn</td>
<td>10th Field Ambulance, 13th Battalion</td>
<td></td>
<td>Accidentally Killed</td>
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<tr>
<td>14.6.1919</td>
<td>Sergeant</td>
<td>Jack Rollo</td>
<td>10th Light Horse Regiment</td>
<td></td>
<td>Motorcycle Accident</td>
</tr>
<tr>
<td>15.5.1919</td>
<td>Private</td>
<td>Peter Hamilton</td>
<td>4th Light Horse, Field Ambulance</td>
<td>England</td>
<td>Accidentally Killed</td>
</tr>
<tr>
<td>13.4.1919</td>
<td>Private</td>
<td>Albert O’Loughlin</td>
<td>7th Battalion, Infantry</td>
<td>France</td>
<td>Accidentally Killed</td>
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<tr>
<td>7.4.1919</td>
<td>Private</td>
<td>Francis Banwell</td>
<td>5th Battalion, AIF</td>
<td>Gundagai, NSW</td>
<td>Accidentally Shot</td>
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<tr>
<td>16.3.1919</td>
<td>Boy 2nd Class</td>
<td>Leslie Earl</td>
<td>HMAS Tingira</td>
<td></td>
<td>Accidentally Drowned</td>
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<tr>
<td>16.3.1919</td>
<td>Boy 2nd Class</td>
<td>Charles Fellow</td>
<td>HMAS Tingira</td>
<td></td>
<td>Accidentally Drowned</td>
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<tr>
<td>21.2.1919</td>
<td>Private</td>
<td>William Moore</td>
<td>8th Battalion</td>
<td>France</td>
<td>Accidental Drowning</td>
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<tr>
<td>27.1.1919</td>
<td>Trooper</td>
<td>Matthew Dawson</td>
<td>5th Light Horse</td>
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<tr>
<td>20.1.1919</td>
<td>Lieutenant</td>
<td>Carrick Paul, DFC</td>
<td>1 Squadron, Australian Flying Corp</td>
<td>Newport</td>
<td>Killed By Train at Crossing</td>
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<tr>
<td>26.12.1918</td>
<td>Sapper</td>
<td>Charles Thomas</td>
<td>1 Division Signal Company</td>
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<td>Accidental Drowning</td>
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<tr>
<td>10.12.1918</td>
<td>Gunner</td>
<td>John Caldecott</td>
<td>4th Heavy TMB</td>
<td>Palm Beach, NSW</td>
<td>Accidental Drowning</td>
</tr>
<tr>
<td>4.10.1918</td>
<td>Private</td>
<td>William Walker</td>
<td>6th Battalion, AIF</td>
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<td>Accidental Drowning</td>
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**ENVIRONMENT: PLASTIC BAGS**

_Senator BARTLETT (Queensland) (9.38 a.m.)—I move:
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

**CHAMBER**
(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.

Question agreed to.

BUDGET
Consideration by Legislation Committees
Additional Information

Senator FERRIS (South Australia) (9.38 a.m.)—On behalf of the chair of the Environment, Communications, Information Technology and the Arts Legislation Committee, Senator Eggleston, I present additional information received by the committee relating to hearings on the 2004-05 budget estimates.

COMMITTEES
Corporations and Financial Services Committee
Report

Senator CHAPMAN (South Australia) (9.39 a.m.)—I present the report of the Parliamentary Joint Committee on Corporations and Financial Services on the Australian accounting standards, tabled in compliance with the Corporations Act 2001 on 30 August and 16 November 2004, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator CHAPMAN—I move:
That the Senate take note of the report.

In this report, the Parliamentary Joint Committee on Corporations and Financial Services has provided parliamentary scrutiny of a total of 41 new accounting standards which were tabled last year and which are disallowable instruments under the Corporations Act 2001. With the commencement of these standards on 1 January 2005, Australia joined with the nations of Europe and a number of other nations around the world in implementing a harmonised suite of accounting standards under the auspices of the International Accounting Standards Board.

It may in fact surprise many senators that, in an era of global markets and global commercial opportunities, nations have continued to have separate accounting standards which provide diverse and inconsistent ways of measuring the financial performance and position of companies. The implementation of these standards now means that Australian companies will be reporting in the same manner as companies in other nations who have chosen to adopt the international standards.

The government is proud that Australia has been at the forefront of the development of these standards and that Australia has not delayed in implementing them. Australian companies will now reap the benefit as their commercial partners find that the books of Australian companies are prepared and presented to an international standard. In particular, companies attempting to raise capital on international capital markets are likely to find that their cost of capital decreases because investors can better understand their financial details. Small and medium enterprises will also benefit from having their books presented according to the most credible accounting standards in the world. However, small and medium enterprises, as always, must implement these new standards with fewer available resources than large corporations.
During this inquiry, the committee came to agree that, for the first year of operation of the standards, small and medium enterprises should be given a slightly later reporting deadline. This will enable them to comply with the standards without undue interruption to their operations. The committee has made a recommendation to this effect. The committee’s second and final recommendation is that the Senate should not move to disallow these instruments. I understand that the Labor Party and the Australian Democrats, who may have a difference of opinion on particular issues, also support the commencement of the standards.

This report is the first to be reported by the corporations committee during this new parliament. During the election period our previous committee secretary, Dr Kathleen Dermody, and committee members Bronwyn Meredith and Angela Lanscan each moved to other committee secretariats. I wish to express the committee’s gratitude for their efforts during the last parliament. I also wish to thank the current acting secretary, Dr Anthony Marinac, and members of the secretariat for their assistance during this inquiry. Certainly Anthony and the team that have taken over the secretariat are performing a very competent and efficient job in their new roles, but I particularly reinforce my thanks to Kathleen Dermody, Bronwyn Meredith and Angela Lanscan for the work that they did during the last parliament. They certainly made the work of committee members such as Senator Wong, Senator Murray and me much easier with their expertise and hard work. I commend them for that and wish them well in their new roles. Having said that, I commend this report to the Senate and particularly commend the new accounting standards to Australian businesses.

Senator WONG (South Australia) (9.43 a.m.)—I also rise to speak on the motion moved by Senator Chapman to take note of the report of the Joint Committee on Corporations and Financial Services on Australian accounting standards. Can I say at the outset that the Labor Party will not be moving to disallow the accounting standards which have been tabled in both the Senate and the House of Representatives and that the Labor members of the committee concur with the recommendations and the vast majority of the committee report. We have tabled a supplementary report making a number of additional comments in respect of a number of areas which I will come to later.

There has been some concern raised within the business community regarding the delay associated with the consideration of the standards. I put on the public record that that is an issue which we regret but which was beyond the control of any of the committee members on either side of the chamber. The relevant standards were tabled in August and November. Obviously, with the intervening election and the subsequent delay in the constitution of the committee, the inquiry commenced later than any of the parties would have preferred. We all would have preferred this inquiry to have been dealt with prior to the commencement of these standards on 1 January. Nevertheless, it has been an extremely useful process to engage in this inquiry. We on this side of the parliament are of the view that parliamentary scrutiny of things such as the accounting standards is integral to the strength of our regulatory framework. We consider parliament does have a role in the consideration of these standards and that benefit does flow from parliamentary scrutiny of the standards and other associated documents that are tabled before the Senate in this area.

I congratulate the AASB on the considerable effort it has put into preparing the standards which have been tabled. It has been a mammoth task. The board, in view of the work it has done, has taken a very considered
approach to the implementation of these international standards in Australia. I do not intend to spend much time on the benefits that we see flowing to Australian business from the adoption of these standards as that is a well-documented discussion; suffice it to say the opposition is sufficiently of the view that there is benefit to Australian business in moving to these international standards and we support the work of the AASB in defining those standards more clearly for the Australian context. Obviously the move to international accounting standards is intended to make investment decisions easier in the international market and will benefit both those who wish to invest in Australian companies and Australians who wish to invest or are investing internationally.

A number of submissions to the committee raised substantial concerns regarding the adjustment process associated with the implementation of these standards. As Senator Chapman has said, small business in particular raised, through the submissions of the AICD, concerns about the readiness for implementation. I note that this concern was not echoed by a number of the accounting bodies, and there was a disparate range of views about the readiness of small and medium enterprises in this country for the implementation of the standards. Nevertheless, we concur with the committee’s view that some relief regarding the reporting requirement would be beneficial, and we concur with the recommendation of the committee for a one-month extension in the reporting time line for the first reporting period for which the standards are applicable. I note that is something that obviously ASIC will need to consult with the relevant sector about, and we trust that ASIC will do so to the benefit of the small and medium enterprises affected.

Another issue that was raised as a significant concern was the implication of the application of the standards on cooperatives. There were significant concerns raised before the committee regarding the treatment of a member’s initial financial contribution to the cooperative. As one witness at the hearing somewhat flamboyantly put it, the application of the accounting standards would result in that contribution having a sex change—which is one of the more interesting things I have heard in any discussion over the years about something as dry as accounting standards. However, undoubtedly it is the case that this issue is of significant concern for a number of cooperatives, if not all of them, in this country. There are also concerns in the financial area over the impact of this accounting treatment on the capital reserve requirements for cooperative credit unions.

For this reason, one of the supplementary recommendations that the Labor Party has sought to make relates to cooperatives. Our second recommendation in our supplementary report emphasises the need for the relevant government bodies to deliver additional educational support specifically to cooperatives in relation to the impact of these new standards on their businesses. We note with some concern the significant issues raised by the cooperatives in the submissions and the evidence before the inquiry.

One other matter that Labor members have alluded to in the supplementary report is the interaction between section 300A and accounting standards 1046 and 1046A. This has been an issue of some discussion—certainly if one is a reader of the business pages of Australia’s newspapers. There is some overlap and arguable inconsistency between the disclosure requirements under section 300A of the Corporations Law and the relevant Australian standards.
I emphasise that Labor members welcomed the evidence before the inquiry of Professor Boymal, the chair of the AASB, who noted that Treasury and the board are working to resolve these issues. We also note Professor Boymal’s view that resolution of these differences is possible without alteration of the section 300A requirements. We were pleased to hear that evidence. We do note that there have been pushes to water down the disclosure requirements set out in section 300A. They are matters that the Labor Party has previously been strongly supportive of and we did have some concerns at moves to water down those requirements. Having said that, obviously we are of the view that duplication is to be avoided, where possible, and we welcome Professor Boymal’s evidence as to Treasury and the board working to deal with the inconsistencies, or potential inconsistencies.

I conclude by echoing the chair’s comments regarding the previous secretariat. This was one of the first committees that I was permitted to serve on when I first came into this place. It certainly was a committee on which I learnt a lot and I do want to place on record my appreciation to Dr Dermody, Bronwyn Meredith and Angela Lanscan for their work. In the previous parliament they were always of great help to me and I wish them well in their new work. Our thanks obviously also go to the new secretariat, Dr Anthony Marinac and his staff, for undertaking this inquiry in such a timely fashion. The evidence was heard on Monday night and we have managed to table the report by Thursday of this week because of the view of the committee that it is important that the Australian business community know the views of the parliament on this matter. The committee has done extremely well to create the report in that time frame.

Senator MURRAY (Western Australia) (9.52 a.m.)—I rise to take note, on behalf of the Democrats, of the report of the Parliamentary Joint Committee on Corporations and Financial Services on the Australian accounting standards. Mr President, if I stand before you bloodied, bruised and with torn clothing, it is because we had a brawl in our party room as to who should speak on accounting standards! They were all very keen on the issue and very keen to speak. However, I won because of much greater experience in street fighting. I would like to begin by echoing the chair’s words on the secretariat. Senators are singularly well served by parliamentary advisers and the secretariats. The standard overall is exceptionally high and professional. But I must say that the persons concerned, who were dealing with extremely complex technical, legal and often very contentious material, have for a long period done the committee proud. It is a committee where a few core members, amongst whom I would number Senator Chapman, Senator Wong and me, carry a great deal of the burden and load. The committee secretariat really did assist us a great deal.

Without diminishing some of the very serious considerations and concerns that many in the business and professional communities, both accounting and legal, have had with this transition to international and harmonised standards, I do want to commence by remarking that, in some respects, it is a little overstated. There are 41 standards and they do run to thousands of pages. Of course, you then have probably thousands of pages of interpretation. I would never wish to indicate that it is anything less than complex and very difficult material. However, there is not that much change in many of the standards. Many of the standards shift across quite easily with relatively little adjustment. Indeed, there have been only two standards interna-
tionally which have been particularly contentious. Those were IAS 32, ‘Financial instruments: disclosure and presentation’, and IAS 39, ‘Financial instruments: recognition and measurements’. The equivalent Australian standards are AASB 132 and AASB 139. Again, I do not want to diminish concerns and important issues which have been raised with respect to a number of standards, but it is not as if there is a whole new body of law, practice, thought and principle in accounting which is being loaded onto the business community. That would be a mistaken impression, and the committee certainly does not hold it. But some individuals in the community might.

The other issue I wish to raise at the outset is that the general business community and general media, as opposed to the specialist media, would not be aware that individual committee members have steeped themselves in this material over a long time. I and no doubt the other members have had conversations internationally with members of the IASB, the AASB and leading thinkers and professionals in this area over many years. They have been very careful to ensure that not only the government and bureaucrats directly concerned but also those with parliamentary responsibility have been properly briefed and informed. I put on record my appreciation for the briefings I have had from people such as Sir David Tweedie, Professor Boymal, Mr Lucy and many others.

The upshot of that, of course, is that parliamentary disallowance of the standards was always extremely unlikely. When you have had proper consultation, when there is a cross-party commitment to getting common standards and harmonisation in a genuinely integrated world economy and when the stakes are so high, it was never likely that disallowance would occur. Speaking for my party, I have certainly given a commitment over a long period that we would not be disallowing these regulations. Of course, that does not mean to say that we are not capable of disallowance. As the Senate will recall, Labor and the Democrats joined to disallow a previous AASB standard some years back. That was because the professionals were not in agreement. It is not the place of this parliament to second-guess professionals who have looked at something in great detail and have then split down the middle. We have to have a consensual, common and unanimous approach in an area as technical and consequential as this. Literally, these standards affect trillions of dollars in company accounts all over the world.

Turning to some of the specifics in the report, in the committee Hansard I described the evidence on the troubles that small business and, more particularly, the accountants who prepare their accounts might have with respect to the transition as variable. The submissions made to us have been rather diffident. In other words, some submitters have been asked to put the proposition, but I had the feeling their hearts were not entirely in it because they had not been completely persuaded. That is because not much changes for those small businesses. We certainly do not disagree that there should be leniency in the first year of reporting—which, incidentally, is later in the third quarter of 2006, so there is plenty of time ahead of them—but I would suggest that, for one million plus small enterprises all to take an extra month to put their accounts and returns in would be an absolute nonsense. Really, leniency should be allowed where there is a genuine need and it can be done.

The other matter I wish to draw attention to is that the committee does refer to some of the controversy that has continued for many years. In passing, I should say that I have long been a member not only of this committee but also of the Joint Committee of Public Accounts and Audit. The matter I refer to is
the true and fair view, which was extensively covered in an exceptional report, I thought, by the JCPAA on independent auditing, Report 391. It was very well covered by our own committee in the coverage of the CLERP9 matter.

We should recognise that we in the parliament—and I must give credit not only to our party but very much to Senator Wong, Senator Conroy, Senator Chapman and others—really did join forces to persuade the government to come to a view on the true and fair issue, which I think has resulted in a very good professional and legal outcome. Corporations Law has been changed, and it is a credit to the process that what was an awkward, contentious and controversial issue has been bedded down rather effectively. In this report, the committee has not made much reference to that and to the fact that the law has been recently changed, but it should be on the record that we think the true and fair issue sits neatly now in Corporations Law and will tie in well with the new accounting standards.

The last point I will make is with respect to the AASB and its interactions with ASIC. As I understood the AASB’s evidence, it recognised that this is a one-off where the enforcement and monitoring arm, which is ASIC, needs to pay special attention to the transitional process. I do not know whether that requires a formal memorandum of understanding or just an upgrading in communication and reporting, but they have certainly taken the committee’s views on board that they need to sharpen up their relationship in this period. I will conclude my remarks with my thanks to my colleagues and, of course, to the secretary, Dr Marinac, and his assistants for the effort they have put in.

Question agreed to.

AUSLINK (NATIONAL LAND TRANSPORT) BILL 2004

AUSLINK (NATIONAL LAND TRANSPORT—CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2004

First Reading

Bills received from the House of Representatives.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.02 a.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) (10.02 a.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—

AUSLINK (NATIONAL LAND TRANSPORT) BILL 2004

Australia’s land transport infrastructure is critical in supporting future economic growth and in meeting community needs. The purpose of this Bill is to reform the framework for Australian Government funding of land transport infrastructure. The arrangements for which the Bill provides will replace over time those contained in the Australian Land Transport Development Act 1988 and the Roads to Recovery Act 2000.

Australia’s land transport infrastructure faces major challenges over the next twenty years and beyond. Freight and passenger volumes will rise. User requirements will become more varied and complex. International competitive pressures will
demand continuing improvements in the productivity and reliability of logistics chains.
In order to meet these challenges, the Government considers that fundamental change is needed in the way that land transport infrastructure is planned and funded.
The arrangements set out in this Bill signal a move away from the longstanding fragmented approach to land transport investment based on the needs of single transport modes and single jurisdictions.
The Bill will assist a change of investment focus to nationally important transport corridors and to finding the best solution to transport requirements irrespective of transport mode.
The Government has set out a comprehensive programme for addressing Australia’s highest priority national land transport needs. The Government will support the programme with an unprecedented level of investment.
In the five year period to 2008-09 some $8 billion will be provided for investment on national roads and railways. Some $1.6 billion will be provided to meet transport needs at the regional and local level. And $180 million is being provided for the highly effective National Black Spot Programme.
I turn now to the key features of the Bill.
The Bill establishes arrangements to apply to six categories of funding:
• AusLink National Projects;
• AusLink Transport Development and Innovation Projects;
• Land Transport Research Organisations;
• AusLink Strategic Regional Projects;
• AusLink Black Spot Projects; and
• the AusLink Roads to Recovery Program.
This Bill also provides the mechanism for the approval of projects and funding, and for the attachment of conditions to funding, under each of these categories.
Pivotal to the funding of AusLink National Projects will be the National Land Transport Network. The Bill provides for the network to be established by ministerial determination.
The National Land Transport Network will be the focus for the Government’s drive to direct its investment to strategic transport linkages of highest national importance.
The National Land Transport Network will move beyond the separately planned and funded national rail and road networks and ad hoc rail/road intermodal developments to a single integrated network.
The National Land Transport Network which the Government proposes to establish under the Bill will encompass the former National Highway System including its connections through urban areas, the major interstate rail network, other nationally important interstate and interregional transport links, as well as links to ports and airports.
Details of the transport links to be included in the initial National Land Transport Network determination were set out in the AusLink White Paper. They reflect the assessment of many proposals advanced during an extensive consultation process.
The Bill allows for variations to be made to the National Network. The Government will periodically review the Network’s composition.
The Bill provides for the Minister to approve individual road or rail projects on the National Network as AusLink national projects.
The $8 billion to be provided over the five years to 2009 will enable approval to be given to a broad range of strategic priority projects.
These include projects on the Pacific Highway, the Hume Highway, the Sydney to Brisbane and Sydney to Melbourne interstate railways, the Bruce Highway and Brisbane urban road links in Queensland, the Geelong Bypass and Calder Highway in Victoria, the Great Northern Highway and the Peel Deviation in Western Australia, the Port River Expressway in South Australia, and the Bridgewater Bridge in Tasmania.
The Australian Government will also contribute towards the cost of maintaining road links on the National Network.
While the National Land Transport Network will be the focus of the Government’s planning and funding responsibility, this does not mean that it has full financial responsibility for all projects on the network. The Network includes links that
were previously jointly funded or fully funded by the States.
The Government has indicated its intention to invest in those projects that are of national priority and have substantial national benefits. The Government has a clear expectation that States and Territories will invest in those projects on the National Network which provide benefits at the State or Territory level. This means that, in many cases, project costs will be shared with State and Territory Governments.

Funding arrangements to be negotiated with States and Territories will vary according to types and details of individual projects. The Government will continue to fully fund many projects on the former National Highway System—especially, for example, remote interstate links because of their importance in providing national connectivity and the minor contribution of local traffic to their costs.

The Government intends that the identification of longer term investment priorities will be progressed, in close consultation with the States and Territories, through the development of planning strategies for each corridor on the National Land Transport Network.

The Government has started developing bilateral agreements with the States and Territories which will cover cost sharing as well as cooperative planning arrangements. These agreements will ensure that there is clarity of responsibilities between jurisdictions.

The Government will also, under AusLink, involve the private sector in the development and funding of Australia’s infrastructure. This will enable important infrastructure projects to be completed in a more timely fashion and enable governments to take advantage of private sector expertise.

The development of a high performing national land transport system cannot be achieved without well focussed research and the encouragement and application of innovative technology and practices.

It will be necessary to identify deficiencies on the National Network, formulate corridor strategies, and devise and demonstrate innovative transport solutions.

The Bill therefore provides for funding of transport development and innovation projects that would potentially improve the efficiency and safety of transport operations on the AusLink National Network.

Projects eligible for funding under this category include planning and research and development of new technology or practices.

The Bill includes provisions to also enable funding to be directed to organisations whose activities are concerned with land transport planning and research. This particularly includes organisations which are jointly funded by the Australian, State and Territory Governments.

The Bill will enable the Government to build on the substantial support already being provided for local roads under the Roads to Recovery Programme over the four year period 2001 to 2005.

The Bill provides for the extension of the Roads to Recovery Programme for a further four year period from 1 July 2005. The provisions in the Bill closely mirror the provisions of the Roads to Recovery Act 2000. Payments under that Act will cease on 30 June 2005. Future funding will be governed by the terms of this Bill.

In all, the Government is allocating $1.45 billion for Roads to Recovery over the five year period to 2008-09.

All councils will receive funding allocations for expenditure on the construction and maintenance of local roads on much the same basis as the current programme’s formula approach. The funds will be paid directly to every local council, as they are under the current programme, and under similar guidelines. This will provide funding certainty and will help all councils to sustain service levels across their local road systems.

Local councils will also be the direct beneficiaries of the arrangements which the Bill will establish for funding AusLink Regional Strategic Projects. Support for these projects aims to enhance the ability of regional industry and communities to compete in the national and global marketplace, as well as improving access to employment and services. The Government will also provide support from within this funding stream for local roads in unincorporated areas where there are no local councils.
The Bill will provide for the continuation of the Black Spot Programme which is a critically important part of the Government’s road safety strategy. The Government has currently committed $180 million to continue the Black Spot Programme in the period up to 2008-09.

The Black Spot Programme has proven highly cost effective in targeting those road locations where crashes are occurring.

Road crashes cost Australia $15 billion every year. Black Spot projects save the community many times the cost of the relatively minor road improvements that are undertaken.

The Bill includes a range of other machinery provisions. The Bill sets down mandatory conditions that will attach to Commonwealth funding for approved projects. The Minister will be able to specify that a project approval is subject to a funding agreement between the Commonwealth and the funding recipient. There is also provision for the Minister to determine additional conditions which will apply to a project or projects not covered by a funding agreement.

The provisions of the Legislative Instruments Act requiring registration and tabling will apply to all legislative instruments made under the AusLink legislation. But it is proposed that the ministerial determination of the National Land Transport Network, the schedule of Roads to Recovery funding allocations, and ministerial determinations of conditions associated with funding will not be subject to the disallowance and sunsetting provisions of the Legislative Instruments Act. The reasons are set out in the Explanatory Memorandum.

The initiatives announced by the Government and to which this Bill will give effect followed an extensive consultation process. It involved numerous meetings with States, Territories, local government, and private sector organisations as well as consideration of 550 written submissions.

Under the arrangements for which this Bill provides, we will:

- drive the development of our key road and rail links and ensure they are forged into a single, high-performing and safe National Network;
- move beyond the entrenched arrangements for separate road and rail funding which hampered rail development;
- recognise the critical importance of links to our ports and airports in supporting a globally competitive transport system; and
- maintain support for the maintenance and upgrading of local roads networks and for the development of key regional links.

The AusLink (National Land Transport) Bill is landmark legislation.

AUSLINK (NATIONAL LAND TRANSPORT—CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2004

The principal purpose of this Bill is to provide for transitional arrangements under which the AusLink (National Land Transport) Bill, when enacted, will progressively replace the Australian Land Transport Development Act 1988 as the legislative framework for future Australian Government funding of land transport infrastructure.

The Australian Land Transport Development Act 1988 will be substantially amended but will continue in force for the time being.

The Bill provides that, on commencement of the AusLink (National Land Transport) Act, no new declarations may be made and no new projects may be approved under the Australian Land Transport Development Act.

There is provision for the Minister to determine that projects previously approved under the Australian Land Transport Development Act will be carried over to the new AusLink Act (and thus administered as AusLink projects). All other projects are to be completed under Australian Land Transport Development Act conditions.

The Bill also provides that the operation of the Australian Land Transport Development Special Account will cease on commencement of the AusLink Act.

To replace the provision of funding through the Australian Land Transport Development Special Account, the Bill provides for a special appropriation for the balance of 2004-05. This special appropriation will be required to cover AusLink expenditure, projects continuing under the Austra-
lian Land Transport Development Act, and new Black Spot projects. From 2005-06, all of these categories will be funded through annual Budget appropriations.

There are some further amendments to the Australian Land Transport Development Act that repeal sections that have long ceased to have practical administrative effect.

The annual reporting provision of the Australian Land Transport Development Act has been amended so that an annual report will only be required in a year in which money is paid out in respect of projects continuing to be administered under the Australian Land Transport Development Act.

This Bill will provide for an orderly transition to the new funding arrangements which the Government proposes for the AusLink programme.

Ordered that further consideration of these bills be adjourned to the first day of the next period of sittings, in accordance with standing order 111.

NATIONAL HEALTH AMENDMENT (PROSTHESSES) BILL 2004

Report of Community Affairs Legislation Committee

Senator FERRIS (South Australia) (10.03 a.m.)—On behalf of the Chair of the Community Affairs Legislation Committee, Senator Knowles, I present the report of the committee on the provisions of the National Health Amendment (Prostheses) Bill 2004, together with the Hansard record of proceedings and submissions received by the committee.

Ordered that the report be printed.

BUDGET

Consideration by Legislation Committees Meeting

Debate resumed from 9 February, on motion by Senator Ellison:

(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

Senator LUDWIG (Queensland) (10.04 a.m.)—by leave—The reason I need leave to speak in this debate on estimates hearings is that last time I sought leave for the matter to be adjourned. I spoke first on the debate and this is my second contribution in a technical sense. The reason I sought leave last time was to ensure that the estimates schedules were as we had agreed and understood. I can report happily that in fact they are. The dates provided have long been the ones that we had agreed to and have continued with. They have served the Senate well in being able to throw light into dark corners, as they say, in respect of the government’s ordinary processes.

In accepting the last change that we have had in relation to the estimates process, we have gone from four individual occurrences of estimates to three. In so doing, we then expanded the November supplementary hearings to include four days, without a spillover day. I think it is helpful to put on the record what happens with a spillover day. We effectively have the ability to have a certain number of committees operate on a day. That is usually as a consequence of the number of rooms available, which is eight. On the spillover day, the Friday, four committees get to have an opportunity to spill over. It is not necessary that they do that; it is if they require the additional day based on the work that they have proceeded with on the earlier days. If they then need the additional time, they use the Friday. It is usually a matter worked out between ourselves as to which committees will in fact take that opportunity.

In moving from four to three periods of estimates, it was perhaps accepted but not conceded that we would then have four days, without a spillover day. As I understand it, it meets the government’s expectations to be able to deliver certainty to their ministers in relation to how the matters will work. It is always a matter, at least my from perspective, that the spillover day is helpful in being able to provide a pressure valve for those estimates hearings which do not quite finish. The point of course is that ages ago, certainly before my time, estimates hearings went well past 11 o’clock at night and into the small hours of the morning, sometimes approaching sunrise. That is the anecdote about the past that I have been told. What we now do is start at nine o’clock and by agreement finish at 11 p.m. The spillover day allows rationality to prevail, as it allows the estimates process to move to that point.

But it was worth getting this agreement as to how we proceed. I do not know it is one that has the support of all the persons here but it has served us well. I thought I needed at this juncture to at least put on the record where that came from and how it has been operating. A debate like this is always a good opportunity to indicate that the estimates process has served us well and has been able to be used in a good way to throw scrutiny on the government. It has performed that task well. This motion seeks to reflect that for the following year and as such we can agree to it.

Question agreed to.

GOVERNOR-GENERAL’S SPEECH
Address-in-Reply
Debate resumed from 9 February, 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 amendment:

"... 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 LIGHTFOOT (Western Australia) (10:08 a.m.)—Continuing my remarks on the address-in-reply to the speech given by the Governor-General on 16 November last year, I was speaking of Iraq in a general sense. I would like to give the chamber some more statistics and information this morning concerning Iraq, a country which I have visited on two occasions now, once for a week in July last year and more recently last week and the week prior to that. I have become very interested in Iraq and particularly the northern part of it, known as Kurdistan. Some of that geographical area is not actually populated by the Kurds, but it is generally known as Kurdistan. It has been at peace now since the 1991 Desert Storm operation, in which a coalition of countries participated.

The whole of Iraq has a glorious past. It has been part of many empires. It has been at times occupied by, or included within, the empires of the Persians and the Greeks. It was, most anthropologists would agree, the birthplace of civilisation, with the home of the Sumerian civilisation being the valley between the Tigris and the Euphrates rivers. It is a magnificent valley viewed from the air. I was fairly close to it because I flew over it at fairly low altitude when I went into Baghdad last year. Looking at those two rivers, you can quite easily see why the hypothesis that civilisation rose there is quite acceptable.

It was occupied at other stages by the Ottomans and by Britain during World War I. It was formally recognised by the League Nations as a British mandate in 1920. That stopped in 1932 and it became a kingdom. It was then a ‘republic’ of sorts, although in reality army strongmen dictators ruled it from 1958 onwards, until it was relieved by the 1991 Desert Storm operation and then again—because of Saddam Hussein failing to comply with certain United Nations resolutions—in 2003 more comprehensively.

Statistics with respect to Iraq are quite surprising. The median age—or the ‘medium age’, as it is sometimes referred to—is 19.2 years. The total population is 25 million people. An amazing statistic is that people 65 years and over make up only three per cent of the population, which is vastly different from the demographics in Australia. For every 1,000 live births, there are 52.71 deaths, an alarmingly high rate. The population’s average life expectancy is 68.26 years, with males having a slightly lower life expectancy. There are 4.4 children born to every woman. I have always wondered about that 0.4 and how that happens.

The Arab population is 75 per cent to 80 per cent of the nation. The Kurdish population is 15 per cent to 20 per cent. Turkomen, Assyrians and others, including Christians and Jews, make up about five per cent of population. In terms of religion, Muslims are 97 per cent, with Shia 60 per cent to 65 per cent and Sunni 32 per cent to 37 per cent of that number, while Christians and other groups are three per cent. Those figures are much different in Kurdistan. The languages spoken are Arabic, Kurdish—and there is an official Kurdish language in Kurdistan, as one would expect—Assyrian and Armenian, with the last two being very ancient languages.

The agricultural crops are wheat, barley—and barley, one of the first crops grown by anyone in the world, was first grow in the Tigris valley—rice, vegetables, dates, cotton, cattle and sheep. Their exports include petro-
leum—as one would expect and which I will come back to shortly—chemicals, textiles, construction materials and food processing. Oil production last year, 2004, was 2.2 million barrels a day. The pre-war production, I might note, was only 2.8 million barrels a day, so, in spite of the insurgency and killings, oil production has been highly successful. Iraq has the second biggest oil reserves in the world. Most of its production is exported. In fact, 1.7 million barrels a day is exported. Its reserves—and these are very conservative figures—are 113.8 billion barrels. That is a January 2002 figure. Its natural gas production is 2.7 billion cubic feet annually—not much at all considering the immense reserves that the country has. Its natural gas reserves, in fact, are 3.149 trillion cubic metres, as estimated in January 2002. Its main imports come from Turkey, with 18 per cent; Jordan, with 13 per cent; Vietnam—strangely—with 10 per cent; the US, with seven per cent; and Germany, with five per cent.

I want to talk of Kurdistan particularly. I have spent a couple of weeks travelling in Kurdistan. I have been to the cities, if my memory serves me right, of Dahuk, Irbil, Sulaymani—some people call it Sulaymaniyah. I have been to Halabja. You may recall, Mr Acting Deputy President, the terrible price that the Kurds of Halabja paid in defiance of Saddam when he bombed them over a 72-hour period—I think it was in 1988—and killed thousands of people in the city.

I remember one poignant photograph when I was in Halabja at a memorial that has recently been completed there. It depicted an elderly Kurdish man in traditional clothes. He had his arm over a baby; both were dead. He was protecting his baby because it was a boy. It appeared to me to be about seven or eight months old. He had six daughters, I found out later, and he did not know which one to protect from the biological weapons dispensed from the air that wiped out so many Kurds in that city, so he put his arm over his baby son. Regrettably, the six daughters, the baby son and he and his wife all perished under that attack of biological warfare from the heinous creature Saddam Hussein.

It is not until you see things like that that you understand what these people went through, particularly the Kurds. Their ethnic difference from Saddam Hussein and people in the south made them a prime target. Kurds, of course, are part of a nation—or a non-nation, if you like—of Kurds that have never had a country—the biggest population of people anywhere in the world that are devoid of a country of their own. They are settled all around that mountainous region which abuts and spills over into Turkey, Syria and Iran and those Kurds in Kurdistan. It is to that point that I want to speak in the time left to me.

I have met the leader of the Kurds—there are several leaders; they are great people. The leader of the Kurds in this case is the leader of the Patriotic Union of Kurdistan, His Excellency Jalal Talibani. I have had dinner with him on several occasions. He is a man of 71 years. He has been a great patriot for the Kurdish people. He has been what is termed a Pershmega, or a fighting patriot, for over 45 years of his 71-year life. He has the opportunity now of being part of a federation of Iraq—that is, the part in the south where there is the port of Umm Qasr and the city of Basrah that was largely occupied by what were termed the Marsh Arabs. Unfortunately, Saddam Hussein drained their swamp. They are now devoid of their little part of Iraq—their little homeland and the little environment that they had.

Somewhere in the Sunni triangle there would be another state. Around Baghdad would perhaps be something like Washington.
DC, or Canberra on a larger scale. There would be another area of Shi’a or Sunni between Baghdad and the northern part of Iraq. Then there would be the Kurds. These would be states making up a federation. The Kurds will be led by Mr Jalal Talibani after all these years of fighting for a homeland. He could lead that. I think that he would make a very suitable president for that new federation.

His first priority is for a federation. However, in speaking with him, he was quite plain: he said that if that federation does not work and the Kurds are again attacked as they have been over decades—in fact, over centuries, by some estimates—then he will wish to go it alone in that part of the world. I said that I would offer my support to him, for what it is worth. It may be small—it may be almost insignificant—but he was very grateful for that support. I have grown to have great affection for and great affinity with the Kurdish people. I often wonder how I would have survived in those environments that the Kurdish people have had to endure. Thousands left. It is like a diaspora of Kurds—much the same as the Diaspora of Jews once they were evicted from Spain in the early 17th century.

The proposal for a federation is finding it somewhat difficult to be independent of the church in a constitutional sense. There must, and must be, a separation of the church and the state. If that difficulty is overcome then I, like everyone else in Iraq and those informed people in Australia, would also support unequivocally a federation. That is the first priority. I am sure, for everyone there that offers any sense of education or sanity. But if it does not work, God forbid, then we must look to protecting those people that have been so badly treated—so nefariously and so heinously treated—by that regime that has locked them out of their rightful democracy for so many decades. This gives them hope.

Australia has played a great role there. There is great leadership in Kurdistan—in fact, there is great potential leadership in the whole of Iraq. I wish them well for their future—not only the Arabs of Iraq but particularly the Kurds who have struggled so long for independence, autonomy and their very lives.

Question put:

That the amendment (Senator Bartlett’s) be agreed to.

The Senate divided. [10.25 a.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes………… 30
Noes………… 29
Majority…… 1

AYES

Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Bolkus, N.
Buckland, G. Campbell, G.*
Carr, K.J. Cherry, J.C.
Collins, J.M.A. Crossin, P.M.
Faulkner, J.P. Forshaw, M.G.
Greig, B. Hogg, J.J.
Kirk, L. Lees, M.H.
Ludwig, J.W. Marshall, G.
McLucas, I.E. Moore, C.
Murphy, S.M. Murray, A.J.M.
Nettle, K. O’Brien, K.W.K.
Ray, R.F. Ridgeway, A.D.
Sherry, N.J. Stephens, U.
Webber, R. Wong, P.

NOES

Abetz, E. Barnett, G.
Boswell, R.L.D. Brandis, G.H.
Calvert, P.H. Campbell, I.G.
Chapman, H.G.P. Coonan, H.L.
Eggleston, A.* Ellison, C.M.
Ferguson, A.B. Ferris, J.M.
Fifield, M.P. Harris, L.
Humphries, G. Knowles, S.C.
Lightfoot, P.R. Macdonald, I.
Macdonald, J.A.L. Mason, B.J.
McGauran, J.J.J. Patterson, K.C.
Payne, M.A. Santoro, S.
Scullion, N.G. Tchen, T.
PRIVATE HEALTH INSURANCE INCENTIVES AMENDMENT BILL 2004
Second Reading
Debate resumed from 9 February, on motion by Senator Coonan:
That this bill be now read a second time.

Senator McLUCAS (Queensland) (10.29 a.m.)—Before us today we have the Private Health Insurance Incentives Amendment Bill 2004, which amends the Private Health Insurance Incentives Act 1998 and the Income Tax Assessment Act 1997 to increase the private health insurance rebate from 30 per cent to 35 per cent for people aged 65 to 69 years and to 40 per cent for people aged 70 years and over. This was a coalition election commitment, announced by the Prime Minister on 22 August last year, that the government claims they have a mandate to implement.

With respect to the specifics of this bill, the rebate will be available on all forms of cover—ancillary and hospital. The higher rebates will apply to those single people who meet the age thresholds as well as to couples and families where one or more individuals meet those age thresholds. Where an individual is entitled to an increased rebate on account of someone else in the policy being 65 or older they will continue to be entitled to the higher rebate if the older person leaves the policy for reasons such as their passing away, divorce or separation. The one exception to this is if the person then takes out another policy with a person aged under 65, other than a dependent child.

As with the existing 30 per cent rebate, the higher rebates will be able to be claimed as premium reductions through the private health insurance funds, direct payouts from Medicare offices or a tax offset in annual income tax returns. The premium discount option is exercised by 95 per cent of premium payers and the cash payment option is available to those retirees who no longer pay income tax. The Howard government claims that this provision will mean that premiums will be reduced by $100 to $200 a year over the existing cost for a couple or a family meeting that age threshold. The bill also contains an amendment that will ensure that people with a veterans gold card are not affected by the application of Lifetime Health Cover. The provisions of the legislation will take effect from 1 April this year, which is when the annual premium increases are implemented.

Those are the specifics of the legislation. Now I want to briefly address the substantive issues surrounding the bill. Over the last four years, the Howard government has made numerous claims to justify the increases in private health insurance and the mushrooming cost of the 30 per cent rebate. In the last three years alone, private health insurance premiums have risen by an average of 22 per cent and too many Australian families and pensioners have faced price increases much higher than that. Some funds have increased their prices by as much as 19 per cent. The Minister for Health and Ageing, Tony Abbott, did not even have the gumption to announce these price increases himself. Given that the government is in the business of simply rubber-stamping every premium increase, you would think that the least he
could have done was take responsibility himself for the bad news and not hide behind the Private Health Insurance Administration Council. I can only presume that the minister did not want to face the many families who have budgeted and paid for private health cover and now face escalating costs. Still, we should not be surprised given that this is the same minister who previously told Australian families to prepare themselves for these price increases by telling them, ‘That’s just the way the world works.’ Minister Abbott went on to say:

… in the real world, as opposed to a perfect world, where all sorts of other costs are going up, it’s not unreasonable for the private health insurers to consider whether their prices need to go up as well.

Let us not forget that before the 2001 election the Prime Minister was out there telling families and pensioners that there would be ‘downward pressure’ on premiums and that private health insurance would be ‘more affordable and attractive’ to consumers. It was back then that the Prime Minister’s election promise was that his government’s private health policies would ‘lead to reduced premiums’. Tell that to the families who are facing increased premiums. It is no surprise that he did not repeat this promise during the last election. No doubt he did not want to tell too many struggling Australian families and those on low incomes that private health insurance is becoming increasingly unaffordable.

The private health insurance rebate, which was first introduced in 1998 and reworked in 2000, has seen an average annual cost blowout of 179 per cent. In the context of spiralling costs, it is imperative that we know precisely what the impact of this legislation will be on the costs of private health insurance to the public as well on the costs of the private health insurance rebate for the government. In the first place, will it impact on the current situation which sees an increase in the proportion of older people having private health insurance and a decrease in younger people, who seem to be dropping out of the system despite the penalties accrued under Lifetime Health Cover? What we do know is that, over the past four years, increasing numbers of young people have opted out of private health insurance. There are a number of possible factors accounting for this, such as the types of services younger people access, which are primarily emergency services provided by public hospitals. Nevertheless, the result is that younger Australians who were in the private health system effectively subsidised the costs of older members. If this trend continues, it begs the question that this legislation may serve to skew the situation even further and we could well end up with higher premiums across the board. Despite this worrying trend, I understand that the government has declined Labor’s requests for the underlying modelling and data about this situation. That is not the way good public policy is formulated and managed.

Turning to the issue of who benefits from this bill, Mr Howard and Mr Abbott have said different things about who will be beneficiaries. The Prime Minister said that he sees this legislation as a reward for older Australians who already have private health cover. This is what Mr Howard said on 22 August last year:

It’s an additional reward for older Australians who really value their private health insurance to keep that health insurance, and it will be a valuable additional incentive for them to do so.

But the very next day, Minister Abbott said on radio that this bill will ensure that more older Australians will take out private health insurance. He said:

… we think there will be a modest increase in the total number of people with private health insurance as a result of this.
The government is now asserting that this bill will result in a one per cent increase in private health insurance uptake—that is, around 10,000 people or families. The truth is that this legislation will first and foremost reward those Australians who can afford to pay for private insurance. It offers nothing to those who cannot. We know that households on low incomes have a comparatively low take-up of private health insurance. We also know from ACOSS analysis that 54 per cent of all people who hold private health insurance and reported a total household income below $20,000 are over 65. Most of this group are likely to be age pensioners.

I cannot see how this legislation is going to encourage people aged 65 to 70 who currently do not have private health insurance to suddenly rush out and sign up, as they would still be subject to the maximum lifetime health cover penalty of 70 per cent. It may encourage people older than 70 to take out that cover, but there are a number of inequalities, which the shadow minister for health, Ms Gillard, has highlighted in the other chamber. For example, a person aged 68 who wanted to take out comprehensive hospital cover for the first time would pay $1,436.50 a year, even after the 35 per cent rebate. A person who bought insurance before July 2000 would pay only $845 a year for the same policy. A person aged 71 next year, who is exempt from the lifetime health cover surcharge, will pay $780 to take out a new policy after the new rebates apply, but someone aged 70 next year will pay $1,326 for the same policy.

One of my biggest concerns is that premium increases will wipe out any benefits within a couple of years. Already we have seen in a little over three years private health insurance premiums rise by 22 per cent. In fact, premiums have risen by about 33 per cent over the last five years. If the current rates of premium increases continue, the benefit of the five per cent rebate in dollar terms will be wiped out in one year and the benefit of the 10 per cent rebate increase will be wiped out in two years. Many health funds have already indicated that they do not see premiums decreasing and that there is every likelihood that they will increase in the foreseeable future.

I mentioned earlier that Labor requested modelling to help us understand the impact that this legislation will have on the affordability of private health insurance now and in the future. The reason we wanted to see this modelling is that it might answer the question of how many older Australians would be induced to join a private health fund based on the real or perceived decrease in price. This is because the greater the number of older Australians in the system, the greater the pressure for premium increases, as older Australians are what are called ‘net takers’ from the system.

Modelling would enable us to make the case that the Howard government’s policies contribute to higher private health insurance premiums for all Australians. However, as I said earlier, that modelling has not been provided nor has the underlying data. In the meantime, there has been some modelling undertaken by a health economist which indicates that the government’s costs include predictions of annual premium increases of 15 per cent or higher over the next four years.

Labor is very concerned about how this legislation will impact on the health system. We are concerned because people aged 65 and over account for seven times the hospital day beds of the rest of the population. We are concerned because people aged 75 and older comprise over 19 per cent of all private hospital admissions compared with 18 per cent in public hospitals. We are concerned because the Australian Private Hospital Asso-
ciation claims that, since the 30 per cent rebate was introduced, private hospitals have taken on the majority of the extra case load compared to public hospitals by a ratio of 2.5 to one. However, the data indicates that, for patients over 75, hospital admissions to private facilities as a percentage of overall admissions have actually declined since the 30 per cent rebate was introduced.

We are concerned because Mr Howard and Mr Abbott continually obscure the lines between Medicare and private health insurance. And we are most concerned that the Howard government is creating a two-tiered system, where those who can afford private health cover will get one level of care and Medicare will pick up the rest. The Howard government operates under the false assumption that private health insurance provides choice—when, in reality, what is happening is a very steady move towards US-style managed care. The Howard government likes to talk up the burden that older Australians will place on our health system but it does nothing to address this issue.

When we addressed this in the committee, a great concern was that less than a week was allowed for submissions to be received on this legislation. In my view, that is why so few submissions were received by the committee. Although Labor will allow this legislation to pass in the House and the Senate, I want to place on record our concerns that the government’s failure to adequately address the health care needs of all older Australians.

Senator KNOWLES (Western Australia) (10.43 a.m.)—Today we are debating the Private Health Insurance Incentives Amendment Bill 2004. Having listened to Senator McLucas’s contribution, I can only draw the conclusion that Labor just do not get it. They just do not understand that the people have voted with their feet. They not only voted to increase the majority of the Howard government but also voted in their numbers to take out private health insurance. And here we have the Labor Party yet again somehow claiming that private health insurance is only for the wealthy and that it will somehow disenfranchise those who are less wealthy and will continue to do so. Nothing could be further from the truth. If that were the case, why is it that over a million people in this country who earn less than $20,000 a year are covered by private health insurance, yet the majority of Labor members of parliament—who, I might say, earn vastly more than $20,000 a year—do not have private health insurance?

Senator McLucas—How do you know that?

Senator KNOWLES—Because you all brag about that, Senator. That is how I know that—because people in the Labor Party brag about it. They say, ‘We pay our taxes; we should be able to go into the public system.’

Senator Abetz—Isn’t that what Mark Latham bragged about?

Senator KNOWLES—That is exactly right, Senator Abetz. But people want private health insurance. They also want to be given an incentive to have private health insurance. There are millions of families who, thanks to the rebate, get $800 or, in many cases, $1000 a year in assistance to pay their private health insurance. What continues to abso-
olutely amaze me is that—last week or the week before—I saw a comment by Dr Stephen Duckett, who holds himself up as some eminent commentator on health matters. I have never seen a comment so loopy and out of touch as that of Dr Duckett’s last week. I do not know what planet this guy is on, but he was a very staunch supporter of the wonderful Medicare Gold Labor Party policy—if not the architect of it. But what a lulu to come out and say that the increase in private health insurance has not taken any load off the public system.

Senator Allison—Madam Acting Deputy President, on a point of order: I think it is quite inappropriate for Senator Knowles to be making a character assassination on Professor Duckett and I ask her to retract those statements.

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Senator Allison, I am reminded that private citizens are in fact not protected in such a way, but there is a standing order of the Senate that reminds senators to exercise their contribution with some sense of responsibility, so I would ask Senator Knowles to perhaps take that on board.

Senator KNOWLES—Thank you, Madam Acting Deputy President. If any Senator or individual considers being called a lulu offensive then I think they are somewhat precious. I am entitled to come into this place and highlight the stupidity of an individual’s blatantly wrong comment about policy. I will tell you why it is blatantly wrong. Private hospitals are treating more and more patients, while Dr Duckett says they are not. The long-term trend shows that private hospital separations are growing more quickly than public hospital separations. Fifty-six per cent of all surgery, regardless of age, is provided in private hospitals and Dr Duckett says that there has not been a load taken off the public system. Private hospital separations increased by 26.5 per cent in the three years leading up to 2002-03, while public hospital separations increased by 5.6 per cent. And you wonder why I call Dr Duckett a lulu?

Those are the facts. There is a dramatic increase in private hospital surgery and procedures and, just by sheer logic, they take away many of the people who would otherwise have to go onto a waiting list to go into a public hospital, because if those procedures were not being done in a private hospital where else would they go? They have to go to the public system. Here we have the Labor Party still saying, ‘The private health insurance rebate doesn’t make any difference.’ The evidence does not support their claim, but it does not stop the nonsense. It does not stop the nonsense, even straight after an election where this government was re-elected with an increased majority with this as a fundamental, core policy.

It does not stop the Labor Party wanting to refer it to a Senate committee. They referred it to a Senate committee, and guess what: nobody complained about it. There was not a hearing. There was no need for a hearing. So once again the Labor Party just do not get it. They do not understand the thinking of the Australian people. They come up with this stupid policy of Medicare Gold, not understanding that they were once again trying to confer a huge benefit on one section of the community that the entire remainder of the community were going to have to pay for. The rest of the community said, ‘I don’t like that too much; I don’t think we’ll vote for them.’ But Dr Duckett was the great supporter of that and then he comes out and tries to justify his support of Medicare Gold by complaining about this. Senator McLucas also mentioned that these new measures would add one per cent to the costs or the membership or something that she referred
to. It is 0.1 per cent. They cannot even get the numbers right. It is 0.1 per cent.

But the important thing with this piece of legislation is that it looks after those who are most vulnerable in our society: the older members of our community. I had a phone call late last year—it was probably early December—when an older lady, 78 years of age, said to me: ‘What’s the Labor Party going to do with the incentives? Do I pay my annual private health insurance now or do I wait for the incentive to go through?’ She said that the Labor Party were no doubt going to oppose it and she was worried because she wanted to get the extra benefit. She is not in isolation. She lives in a nursing home. There were a whole lot of people who had discussed it around the dinner table and who wanted this legislation last year.

What did the Labor Party do? They referred it to a committee and said, ‘We are not going to give this legislation the tick until next year,’ creating further uncertainty for the older members of our community. There was no good reason whatsoever to delay it. They just wanted to send it to a Senate committee for scrutiny. As I said before, no-one decided that it needed scrutiny; they just liked the idea, the concept, and just wanted to get on with it. Here we have a Labor Party who still cannot believe that they got defeated at the election and they cannot believe that these measures are the very things that people voted for.

I remind the Senate that this bill amends the existing provisions that provide incentives for private health insurance, commonly known as the private health insurance rebate or the federal government 30 per cent rebate on private health insurance. The current private health insurance rebate helps Australians with private health cover by reducing the cost of their premiums by 30 per cent. These amendments will increase the rebate from 30 per cent to 35 per cent for policies covering at least one person aged 65 years to 69 years, or to 40 per cent for policies covering at least one person aged 70 or older. I would have thought that any reasonable member of parliament would have clapped their hands and said, ‘Yes, let’s get on with this. This is an important measure to help people aged 65 and over.’ But not so. The Labor Party are still out of touch.

Now these changes will not take effect until 1 April this year. The changes will mean that existing policyholders who have contributed to private health insurance for most of their adult lives are assisted in meeting the costs of their private health insurance at a time when they are likely to be on fixed or low incomes. That is the very time when they need this type of assistance. People on fixed incomes cannot continue to put money aside for everything without a little bit of assistance, and this is just a little bit of assistance. If they need treatment, they should be able to access treatment in the private sector and they should be able to access it quickly and not have to go onto the waiting lists.

Dare I say that I am old enough to remember the old system before the Labor Party originally tinkered with it. In that system—and Senator Eggleston might correct me on this—about 70 to 80 per cent of the community had private health insurance. It was affordable and people could go to the doctor of their choice and to a hospital of their choice whenever they needed to. Those who could not afford private health insurance were clearly able to access the public system as and when they needed to. There were not two-, three-, four- or five-year waiting lists for various procedures. If they needed to go into a public hospital, they could get into a public hospital.

Then the Labor Party came in and said, ‘No, you cannot have that. You have to have
a national health scheme where everyone gets access to the public hospitals.’ And what happened? People started dropping out of private health insurance. As people dropped out of private health insurance the waiting lists for public hospitals went up. So one went down and one went up until we got to the stage where people had to wait years for fairly routine procedures like intra-ocular lenses, knee replacements or hip replacements—mind you, if I were having a knee replacement or a hip replacement I would not think it was pretty routine, but they are considered such today.

Senator Eggleston—There are long waiting lists in public hospitals.

Senator KNOWLES—That is exactly right, Senator Eggleston. It just seems to go on and on. What we are trying to do is reverse that trend so that people who cannot afford private health insurance—and, as I said, there are a million people earning less than $20,000 who do have private health insurance—will actually be able to get into a public hospital. They will be able to get in because we will unclog the public hospitals by getting more people into the private system.

Senator Eggleston—A much better service to the community.

Senator KNOWLES—The service to the community is a very important aspect of our entire policy because we do not believe that it is desirable for people to have to wait months and months for these routine procedures. But we cannot get the Labor Party and the Democrats on board with this philosophy. For some reason they still hold out their old chestnut that everyone should be queued up at the door of the public hospital system for some sort of equality.

Senator Eggleston interjecting—

Senator KNOWLES—It is a socialist concept; that is quite right, Senator. It is a socialist concept that simply does not work in this country. We should be applauding people who take out private health insurance and seek to look after themselves. Equally, we should be assisting those who take out private health insurance. I think it is scandalous that people on high incomes choose not to take out private health insurance and go to public hospitals at the expense of those on low incomes. There are people on high incomes who choose to self-insure—in other words, when they need to go to hospital they go to a private hospital but pay all the costs and do not make a claim on anyone. That is their business and that is their right. They are not denying someone on a low income a public hospital bed. And that is my gripe—people on high incomes should not be taking that place.

I think that every single solitary policy move that this government has made, to try to free up the public system for those who really need the public system and enhance the private system for those who choose it and can afford it, is highly commendable. For example, the government introduced the Medicare levy surcharge for the higher income earners who choose not to take out private health insurance. That was desirable. In other words, if you are earning $150,000 don’t expect to be treated the same way as someone earning $30,000. If you earn $150,000 and choose not to take out private health insurance then you will get hit with the Medicare levy surcharge because you should be contributing to the overall cost of health care. There is also of course the private health insurance rebate and Lifetime Health Cover.

However, one of the grave mistakes, or fibs I suppose, that is perpetrated in the community—and we can point the finger here at the Labor Party—is that the Medicare levy actually covers the entire cost of health. I do not know the exact figure at the mo-
ment, but I think the percentage is probably about 20 per cent of the entire cost of health. So the argument that if you pay your levy you are somehow entitled to do or receive anything you want at any time, regardless of your income, is just plain nonsense. The levy does not cover everything. That is why we must look after the lower income people who cannot afford the option of private health insurance. We should give every possible incentive to higher income people who can afford it or to lower income people who want it—and particularly to the lower income aged who want to maintain their private health insurance cover at a time when they may need it most.

This bill does exactly that. I think it is a great shame that this bill has been delayed for as long as it has—and the Labor Party can take credit for that because they wanted it delayed. They are reluctantly supporting it now, as we heard from Senator McLucas, for all the way-out reasons that the Labor Party has for opposing the concept of private health insurance, let alone the rebate to help people pay their premiums. So I will be interested to hear what Senator Allison has to say on this because, over the years, the Democrats have also had a very strange attitude towards private health insurance—

Senator Abetz—And private schools.

Senator KNOWLES—And private schools, and anything else that might be associated with freedom of choice. I notice that, prior to his departure, Senator Cherry was encouraging the Democrats to start looking more realistically at some of these issues, because he believed that the Democrats had moved far too far to the left and were out of touch with society. I can only endorse what Senator Cherry has said, because that is reflected in the way people voted at the last federal election, with an ever-declining number of votes for the Democrats. So I hope that Senator Allison, in her new role as leader—on which I congratulate her—will take the Democrats into a more reasonable position in society, where they will look at what the community actually wants and needs, and subsequently support such measures.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (11.02 a.m.)—Perhaps I should start by calling the government a pack of lulus and talking about the extreme stupidity of this legislation. I am disinclined to go down that path, because speeches on the second reading debate in this place, as you know, are generally about presenting the case in a way which adds to the debate rather than through a pack of rhetoric by a bunch of luluses or whatever. I think it is really disappointing that Senator Knowles has chosen to go down that path and reveal to this place the real agenda. What we heard from Senator Knowles was that we should return to the bad old days. We should go back to the time when most people had to have private health insurance because that was the only way of guaranteeing decent health services in our hospitals.

Senator Knowles, I remind you that back in those bad old days not only were there no hip replacements, because the technology was not around, but also there was no way you would have had a hip replacement in a public hospital. We do not want to go back to that old system. We do have a universal health system in this country, both with Medicare and with our public hospital system. People like me will defend to the end the importance of having that universal system, because it means that the level of health care that you get is not related to your income. As Senator Knowles knows very well, people on high incomes pay a Medicare levy. We know it does not cover the whole cost of the service but that is not a reason to suggest that only the poor should be in the public
health system. Neither is it reasonable for her to suggest that the *Private Health Insurance Incentives Amendment Bill 2004* will unclog the public hospital system. If Senator Knowles is making that undertaking to us in this place, then I welcome it, but somehow I doubt it. I do not think the Prime Minister suggested at the last election that that is what this bill would do.

The reason the government is stupid is that it is not listening to the evidence. It is not listening to Professor Duckett or to any of the others who made submissions to the inquiry. The government says this bill will make private health insurance even more affordable for older Australians by increasing the private health insurance rebate for people over the age of 65. The 30 per cent rebate on the cost of private health insurance, as we all know, was introduced back in 1999. Since then, the cost has risen to approximately $2.5 billion—that was in 2004-05—and the higher rates for people aged over 65 years introduced in this bill are anticipated to cost a further $445 million over four years. The private health insurance rebate is recognised by virtually every health economist in this country as being crazy, inequitable and unsustainable. Instead of reviewing the cost-effectiveness of this $2.5 billion rebate, what is the government doing? It is extending it even further.

We need to be quite certain about what the private health insurance rebate really is and what it does. There is no other way of saying it: the private health insurance rebate is a subsidy for private health care. The rebate uses money that could be benefiting all Australians by providing services in public hospitals and goes primarily to well-off individuals and families so they can effectively jump what are often very, very long queues. The Democrats would very much like to see those queues reduced but we think this legislation is not going to do that.

There is very good evidence that it is those on higher incomes who have benefited from the current 30 per cent rebate. They were encouraged to take up health insurance. Many also benefited from the Medicare levy incentive and ended up paying no extra to have private health insurance. All of the private health insurance companies have calculators on their web sites. You type in your income and, if it is $100,000 and you are a high-income earner like us, you will discover that, because of the levy reduction, you can have a private health insurance policy at no net extra cost. So what we are doing is subsidising a private health insurance system, and we are not charging people anything for it in some instances.

It is the case that, as with the existing 30 per cent private health insurance rebate, the new increased rebate for older Australians will not be income tested. The very first principle when you talk about using money to good effect is to look at the income of people. We would have thought that income testing would be one of the fundamental measures to make sure that this was equitable. Recent research shows that about half of the Australian government’s expenditure on the 30 per cent rebate goes to the highest 20 per cent of income earners. I will say that again: about half of this expenditure goes to the top 20 per cent of income earners. And almost 75 per cent of the funding for the rebate goes to the top 40 per cent of income earners. I do not know how you can sit back and say, ‘This is an equitable system.’

Other research shows that only 25 per cent of families in the bottom 20 per cent of earners hold private health insurance, in comparison to over 80 per cent of families in the highest 10 per cent of income earners. Other research has shown that lone women, lone men, those aged over 75, those who were born overseas, those who are living in regional areas and those with low retirement
incomes have a substantially lower probability of holding health insurance in old age and, consequently, a much lower probability of benefiting from the rebate. Still more research has shown that people who have private health insurance have less need for health care services but in fact use more of them. So when we look at this question of equity we have to ask: is the health dollar going to those who need it most?

A paper by Don Hindle and Ian McAuley, published in September last year, noted that people with private health insurance have less likelihood of chronic pain, lower levels of diabetes, less visual impairment, fewer urinary problems, less incontinence and fewer pregnancy complications, to name a few, yet people with private health insurance have higher levels of use of health services. The same paper reported that, after adjusting for need, private health insurance was associated with a greater likelihood of having a breast examination, higher rates of hysterectomy, more attendances at sports medicine clinics and higher instrumental birth rates and caesarean section rates.

We all know that there are real constraints on resources in the health care sector—and I am talking not so much about the money as about the limited number of doctors, nurses, specialists and beds in this country. Thus, it makes sense that, in order to provide these services to those with private health insurance, resources must be redirected from the public system—that is, doctors and nurses moving from the public sector into private hospitals. This transfer of resources from public to private does not relieve pressure on the public sector, despite what Senator Knowles claimed today, because those resources are being directed not to those with the greatest need but to those who have the money to buy services.

The government has argued that this legislation is about maintaining the affordability of private health insurance for people aged over 65. However, as has already been pointed out by Senator McLucas, health insurance premiums continue to rise at rates significantly higher than the CPI. There has been a steady rise in the average increase of private health insurance premiums over the last three years, with increases two to three times that of the CPI. In April 2002 the increase was 6.9 per cent, in March 2003 it was 7.4 per cent and in March 2004 it was 7.82 per cent. If a further seven per cent rise is approved—and there is no reason to suggest that this government will do otherwise—it would be in line with recent increases, and health insurance fees will have risen 40 per cent since 2001, effectively offsetting the original 30 per cent rebate. It is likely that consumers will face similar premium rises again in the first quarter of 2005 as private health insurance funds negotiate for further premium increases to cover the cost of new technologies, increased demand for treatments from consumers and increased payments to medical specialists.

The 2004 OECD paper examining private health insurance in Australia reported that private funds do not exercise control over the quantity, quality or appropriateness of care provided and that private health insurance has led to an overall increase in health utilisation, as there are few limits on expenditure growth. It would have been useful if Senator Knowles could have defended the government’s position in the light of that OECD finding. I think it is damning, yet there is no serious examination in this country, except by the likes of Professor McAuley and Professor Duckett, into the usefulness of this approach.

The Private Health Insurance Administration Council reported that benefits paid out by the funds for hospital treatment increased
by 9.6 per cent in one year alone—2003-04—and that medical gap payments to doctors had increased by 19 per cent in that time. Costs in the health care sector overall are now rising considerably faster than inflation and are moving far ahead of the OECD average, where Australia was once very firmly positioned. What do we hear from the government about this? It is to be glossed over because of some election promise which sounded like a good idea at the time but which can find no support in the broader community and from those academics whom Senator Knowles likes to do character assassinations of. Who, apart from the industry, is coming forward and saying this is a really good idea? No-one, because they have looked at the stats and at what this means to our health system and their conclusion is that it is going in the wrong direction.

The government continues to put money into the private system despite evidence that the greater the degree of privatisation in health, the greater the cost of health care to the population as a whole. The government has argued that older Australians have the greatest need for health care and that this legislation is about assisting them with access to health care, yet a recently published study concluded that the increased rebate will not assist all older Australians, but only those older Australians who are already insured. Moreover, the better the insurance you can afford, the higher the rebate. So if you are getting all of the ancillaries and supplementary treatments, whatever they are called—the gold star treatment—then the government gives you more money. Elderly Australians who have the financial means to purchase more expensive comprehensive policies will benefit more than older Australians holding cheaper hospital-only type policies. For example, a 65- to 69-year-old who purchases a $2,800 policy will, under the existing rebate, save $200, compared with a saving of $50 for an elderly person who purchases a $700 a year policy.

The government itself admits that this increased rebate will have little, if any, effect on increasing private health insurance membership rates amongst older Australians. In the Prime Minister’s own words, it is simply a ‘reward’ for those who can already afford it. Most people aged 65-plus who are not insured are drawn from the ranks of the less affluent. The rebate will not overcome the financial problems they face in affording private health cover. The millions of dollars spent to fund the proposed subsidy offer no relief to those older persons who, due to the Lifetime Health Cover surcharge, cannot buy private insurance and so we are not going to have them coming in. This extra rebate will make absolutely no difference to that situation. With the added burden of Lifetime Health Cover, health insurance is now unattainable for many older Australians—even with that extra rebate, as I said. If the government’s goal is to increase the affordability of health insurance, then they should first address the problem of older persons who are faced with higher surcharges under Lifetime Health Cover. In fact, why not drop it so that those who were bludgeoned or frightened into joining private health insurance a couple of years ago, when Lifetime Health Cover was introduced, would exit the system? Most of them are disaffected with it in any case, but they stay there because they are afraid of what increases to premiums would mean for them.

The rebate is not about helping those most in need of access to health care. Many Australians living with a disability or a chronic illness, regardless of age, face substantial health care costs. The 2004 survey by the Chronic Illness Alliance in Australia found that households with incomes below $13,000 a year paid out 27 per cent of their income on health related costs, even with a health
care card making them eligible for concessional payments. Households with incomes between $26,000 and $36,399 that are still eligible for the health care card paid out 14 per cent of their total income on health related costs. We argue that, if the government were in any way concerned with helping those most in need, it would put that money into the public health sector so that those low- and middle-income earners who rely on the public health system would be able to get the care they need. Senator Knowles was very disparaging of that approach, but we make no apology for standing up for people who are on low incomes. We think this is a perfect example of the government not giving a toss about those people.

As I have said, the private health insurance rebate is not about improving access to health care but is a subsidy for the private health industry, and not a very effective one. In a 2004 paper, Dr McAuley argued that using the intermediary of private health insurance to provide funding to private hospitals results in substantial leakage in funds to administration and ancillaries and medical gap payments, thereby reducing the amount of money flowing into hospitals—that is, private hospitals. He makes the case for direct subsidy to private hospitals as a more efficient and equitable means of supporting private health care delivery and says that could save $300 million a year. Direct provision of funding would also allow the government to demonstrate some control over costs within the private sector.

Has the government looked seriously at these propositions? Apparently not. At least we did not hear anything about it from Senator Knowles. Maybe the minister will be better able to respond to that idea or tell us what the government’s view of it is. We do not necessarily advocate that approach, but we do think it is time for a proper debate about whether the $2.5 billion, soon to be $2.6 billion or perhaps $2.7 billion, is a sound use of public money. That is what debates in this place are supposed to be about. They are not about mandates. They are not about giving the government everything it asked for before the election. They are about whether or not, after scrutinising this legislation, it still makes any sense.

If the government gave up its obsession with private health insurance and started looking at the many issues that affect our health system, private and public, then we would all be better off. Surely it is about time we looked at improving quality control systems so that there are fewer preventable errors in hospitals. Surely it is time we stopped the buck-passing and the cost-shifting between state and federal governments. Surely we should start providing the sorts of preventative and integrated care models that will save us money in the long term.

In concluding, I must say that the Democrats are disappointed that the ALP will be supporting this bill. Sadly, it is another case of saying one thing and doing another. I do not believe that the government has a clear mandate on this issue. I do not believe that many people understand the implications of proceeding down this path. I do not think the Senate should ignore the very clear evidence that came before us in the limited inquiry that we were able to have.

The Democrats will not support this bill; we are not afraid to stand against it. Mandates sometimes have legitimacy but not in this instance—not when the government has not declared to the public that this money effectively will not make the slightest difference to older people, that premium rises are going to overtake in a very short time whatever this gift might mean to people and that, at the end of the day, we are all going to be worse off because we are dealing with a very expensive system of health. We are going
down the path of the United States, which spends far more per capita on health than we do and yet, by all accounts, the delivery of services is far worse. If the ALP are complicit with the government in agreeing to this, that is really disappointing. I was hoping for something better from the ALP after the election, and I would encourage them to think seriously about this. I think there is at least a chance to review this situation and hold the government to account for what it claims is going to benefit older people but clearly will not—at least on the evidence we have been given. There does not seem to be any evidence coming from the government side. All we have had is abuse and rhetoric from Senator Knowles; I hope the minister can do a little better than that. I do not think this bill is worth supporting and the Democrats will not be voting for it.

Senator FORSHAW (New South Wales) (11.22 a.m.)—I rise to make a few remarks on the Private Health Insurance Incentives Amendment Bill 2004. I do not intend to take my full allotted time because many of the issues that I would have raised have already been canvassed in the speeches of Senators McLucas and Allison, although I do not agree with the concluding remarks of Senator Allison. Whilst this bill is specifically directed at measures that were put before the electorate during the election campaign by the government, the broad issues of the private health insurance rebate have been debated on many occasions and have been the subject of investigation by the Senate through committees and estimates. However, it is disappointing that there was not more time available for the Senate Community Affairs Legislation Committee to consider this specific legislation and also, particularly, that the government did not provide the modelling for this measure. Given that it is a significant budgetary measure—it is some $445.5 million over four years—and relates to a major area of government expenditure, it would have been appropriate for detailed modelling to have been provided to the Senate.

What we also know is that, whilst this measure is estimated to cost $445.5 million over the next four years, as I said, the private health insurance rebate scheme itself is growing like Topsy. It is essentially an open-ended commitment because it is based upon rebating currently 30 per cent of private health insurance premiums. It is said that that is a rebate for the consumer or the person who takes out the insurance, but in reality, as we all know, this is essentially a massive subsidy to the private health insurance industry.

This bill seeks to amend the Private Health Insurance Incentives Act 1998 and the Income Tax Assessment Act 1997 to implement the government’s election promise to increase the private health insurance rebate for seniors. Specifically, it would increase the rebate from 30 per cent to 35 per cent for those persons aged 65 to 69 and to 40 per cent for those persons aged 70 and over who have private health insurance. Unfortunately, the policy does nothing really to better equip the health system to deliver quality health outcomes for older Australians. It is a very crude mechanism. Certainly, whilst no doubt it is most welcome to those Australians in those age groups who have private health insurance, it does not address fundamental issues regarding the delivery of health care and particularly hospital care. It does nothing to alleviate the many problems in the health system. It does not attempt to reduce waiting times, increase access to GPs, deal with critical skill shortages in the work force or boost capital and recurrent funding for improved health services. It does nothing at all to put more funds into the public hospital system.
The government itself is actually somewhat confused about the real intention of this bill. The Prime Minister has said, for instance, that it is aimed at rewarding those who already have private health insurance. The Minister for Health and Ageing, on the other hand, says that it is aimed at attracting more elderly Australians to private health insurance. The latter is a very dubious claim by Minister Abbott. As has been stated, the Department of Health and Ageing itself believes that the increase in private health insurance uptake as a result of this measure is estimated to be no more than one per cent. So, clearly, it is a poorly designed and ill-conceived measure.

What the research that we have access to, such as that by ACOSS, does show is that this policy will primarily help those who have a large amount of disposable income and are able to afford private health insurance—in particular, those who are able to afford products at the higher end of the market. The ACOSS research shows that people aged over 65 who earn over $100,000 per annum make up the largest income group that has private health insurance. Those on incomes of less than $20,000 make up the smallest income group with private health insurance. So essentially this legislation, which is targeted at older Australians and gives them an increased rebate, does nothing at all to assist seniors who are on low incomes. It does not assist them with one cent in terms of improving their ability to take out private health insurance if they do not have it.

What we also know—and I take up the comments that were made earlier by Senator Knowles—is that the number of people in the age bracket over 70 that are using private hospitals is declining. Senator Knowles in her speech boasted about what she claimed was the substantial increase in separations for private hospitals. I think she said it was in the order of 26 per cent for private hospitals but only five per cent for public hospitals. A couple of points have to be made. The first and obvious one concerns the old adage: there are lies, damned lies and statistics. You can use statistics to prove essentially whatever you want to prove. Comparing the two percentage increases is really totally erroneous. What we do know, for a start, is that the increase in private hospital admissions is coming from a very low base. It is a much lower base than that of public hospitals across this country. So any increase in private hospital admissions and surgery treatments is always going to produce a higher percentage than the same increase in public hospitals.

The second point is that, as we know, it is the public hospital system that provides the more complex and expensive surgery and treatments. That is where the high costs ultimately are. That is where patients go if they are in real need of emergency surgery or major surgery for treatments such as heart transplants and so on. It is a piece of sophistry by Senator Knowles to use those figures to somehow say that the private health insurance rebate has worked wonders and increased the throughput of private hospitals.

I have just a couple of other points that I would like to cover. One of the problems is that private health insurance as a product is not all that attractive for many Australians. Insurance by its nature is that—you are endeavouring to insure against an unexpected illness, accident or whatever. On that basis, I have no objection and, indeed, I am a person who has had private health insurance all my working life. But, for many Australians and many families, private health insurance is used more for the ancillary side of the coverage. For instance, particularly for young families, they use it for dental. If you have a young child today who has to have orthodontic work—braces and so on—the costs are
incredible. While fluoridation has probably reduced the number of treatments for cavities and fillings, I have happened to notice that these days more and more kids in schools seem to be wearing braces and having more expensive dental treatment. I do not know what that means but it is an observation. Certainly families take out private health insurance to try to cover that; optical is another area. The problem that I hear constantly is that the level of rebate that you receive compared to the cost makes it rather poor value. Most of the time you get back less than 50 per cent of the cost in any of those services, whether that be physiotherapy, optometry, dental and a whole range of others. But we are told that this is a product that is attractive to Australians and is being increasingly taken up.

We know that the figures have improved. One of the major reasons for that is that penalties, through the surcharges, are applied to Australians in certain income groups if they do not take out private health insurance. I have always found that to be an interesting irony. On the one hand, the government professes that we should not have things like compulsory unionism—and, indeed, it is setting out, as we know, on a course to essentially destroy the union movement, which provides the sort of insurance for workers in this country which relates to their wages and working conditions—but, nevertheless, it is happy to throw billions of dollars of public money, of taxpayers’ money, to the private health insurance industry. Apparently it is okay to support groups like private health insurance companies and doctors’ associations—the AMA and so on—to give them subsidies and support through the public tax system in order to enable people to have insurance for health care, but it is not okay to allow unions to operate to protect the wages, working conditions and living standards of Australian families.

The other point that has been made so often is that, whatever assistance this measure gives in terms of increasing the subsidy or the rebate for those persons over 65, any benefit will be wiped out within a short space of time through premium increases. Notwithstanding the billions of dollars that have been paid out in the 30 per cent insurance rebate so far, premium increases in health funds are still rising. They have risen in the order of 33 per cent over the last five years. Whilst the private health insurance lobby comes along, year after year, saying, ‘We want to put up our premiums by another five or 10 per cent,’—and I remember in some cases it was up to 19 or 20 per cent—they are receiving billions of dollars in subsidy from taxpayers for that same product.

I will conclude my remarks there. The opposition are supporting the bill. It is a measure that was put to the people, and a promise has been made. We are going to support the government in this measure, but we will continue to point out the faults in this government’s approach to health care generally.

Senator BARNETT (Tasmania) (11.36 a.m.)—I stand in strong support of the Private Health Insurance Incentives Amendment Bill 2004. I am disappointed in the responses from the other side and want to put on the record the fact that this was a very high-profile public policy position held by the Howard government prior to the 9 October election. The people of Australia did make a determination. They have delivered a mandate to the Howard government, and I hope that this bill receives the full support of this parliament. It has a number of benefits and measures. It increases the rebate from 30 per cent to 35 per cent for people aged 65 to 69 years and then to 40 per cent for people aged 70 years and over.

Australia, in my view, has one of the best health systems in the world because it has an
excellent mix: it has a balance of public and private health and hospital care. They coexist and they complement one another. The latest statistics that I am aware of say that the private hospital sector provides about half of all acute hospital procedures. You can see the benefits of that to the health system overall.

Members from the other side were saying that all this money is just going to the health funds or the private hospitals. That is not the case. It goes to the Australian people. From 1 April 2005, for a typical couple or family policy, the higher rebates will reduce the premiums for eligible policies by between $100 and $200 a year. That is over and above the existing 30 per cent rebate. You can see the benefits for the people of Australia, and specifically older Australians.

The bill recognises that older people are more likely to need health care and that the affordability of private health insurance for people aged 65 and over is especially important. The changes mean that existing policyholders who have contributed to private health insurance for most of their adult lives—and there are many Australians in this position—are assisted in meeting the cost of their private health insurance at a time when they are most likely to be on fixed and low to moderate retirement incomes and also at a time in their life when they are more likely than not to require good health care or hospital care. That is a point that needs to be firmly made.

The aim of the legislation is to increase the affordability of private health cover for older Australians, at a time in life when people are most in need of medical attention. That is the simple, fundamental thrust of why I support it and why the government is promoting this legislation as important. Many older Australians have contributed to their private health insurance during their younger years while they have enjoyed good health, so why should they be penalised in any other way? They are going to receive the benefits of that. When they need that medical care the most it is important that health insurance remains affordable. It should be noted that more than one million Australians over the age of 65 are covered by private health insurance and those people, as I say, will receive a rebate of about $100 to $200 per annum in addition to the 30 per cent rebate that they already receive.

In terms of community support, it should be noted that the Australian Health Insurance Association, Catholic Health Australia, the Australian Private Hospitals Association and the Australian Medical Association have supported it. Indeed, many other groups have too. Prior to the election I attended a public forum at an Independent Retirees Association function in Launceston and in fact debated this very policy with Senator Nick Sherry. The overwhelming response at the meeting by independent retirees and older Tasmanians was in favour of this very important policy.

In regard to the AMA, I want to place on record and acknowledge the important contribution of their president, Bill Glasson, who is quoted as saying:

The only reason the public hospitals are surviving to any extent that they are at the moment, is because of the 30% private health insurance rebate. He is absolutely and entirely correct. This further incentive and support for older Australians will provide further support for the public hospital system and help provide that excellent balance and excellent mix. I want also to acknowledge my colleagues Senator Sue Knowles—who also made an earlier contribution—and Senator Gary Humphries. We were government senators on the Senate Select Committee on Medicare, which reported in October 2003. On page 230 of the
report of that committee, which is a public document, we said:

Australia’s health system requires an appropriate mixture of public and private sector involvement to maximise the capacity of Australians to fund high quality health services. The PHI rebate is a crucial policy in achieving the right balance.

We went on to say:

Government Senators further recommend consideration of a special rebate increase for people aged 65 years of age and over.

I am absolutely delighted that this is now government policy. It is not only policy but legislation. That is why I stand in full support of this. Finally, I want to acknowledge in terms of Tasmania the strong support for private health insurance in our state and also the good work at the Tasmanian based St Luke’s Health Insurance. It is led by Colleen McGann, who was businesswoman of the year. She is held in high regard and runs a very lean operation. That operation is very well supported in Tasmania and for good reason. For all those reasons, I strongly support the legislation.

Senator NETTLE (New South Wales)
(11.42 a.m.)—The Private Health Insurance Incentives Amendment Bill 2004 gives effect to the government’s announcement shortly before the 2004 election of increases to the private health insurance rebate for Australians aged 65 and over. There is no public policy justification for this measure. It further undermines Australia’s public health services by taking money away from the public sector to pay private insurance subsidies. It is another instalment in the government’s relentless pursuit to privatise health care in Australia and marginalise Medicare as a safety net insurance scheme.

It is no surprise that the government intends to support this bill, particularly given the concerns that have been raised by Labor about this bill in its dissenting report tabled in the Senate on Tuesday. The Labor Party, as part of the Senate Select Committee on Medicare majority report of October 2003, recommended the government initiate a review into the private health insurance rebate. I will be moving amendments to that effect today and I look forward to support from the Labor Party and others.

The Greens, like many in the community—such as age pensioners, low-wage workers, health professionals, academics and economists and most of the state and territory governments—are worried about how the $2.5 billion annual private health insurance rebate is slowly but surely destroying the public health care system which was built up in this country over decades. This is no minor issue. It is not about freedom of choice, as the government and the insurance industry association claim; it is about whether, as representatives of the Australian people, we will collude in the government’s plan for health care that will lead inevitably to higher health bills and less access for millions of Australians.

The Selection of Bills Committee recommendation to refer this bill for inquiry was adopted by the Senate on 1 December 2004. Submissions were called for, with a closing
date of 7 December 2004, which gave members of the public less than a week in which to respond. Consequently, the committee received few submissions and decided against having a public hearing. The Greens believe that the short notice period directly affected the number of submissions received. It is not possible to conclude from the small number of submissions that there is widespread public support for this measure. On the contrary, widespread concern about the rebate policy has been expressed publicly for several years.

The private health insurance rebate has been in place since January 1999, and the cost to the Commonwealth has increased substantially since that time. The rebate now costs around $2.5 billion a year, and the measure proposed in this bill will further increase that cost to the public purse. It is estimated to increase the cost by $445 million over four years. Answers to our questions on notice to the estimates committee last year showed that the government has not estimated the cost of the rebate increase beyond four years. But with health insurance premiums rising much faster than inflation we can expect that the cost to the public purse will continue to increase.

The rebate has failed to achieve the objectives that the government set out for it. Private hospital admissions have risen but there has been no commensurate fall in demand for public hospital services. Now the government—or perhaps it is the health insurance industry—is worried that older people will drop their cover as premiums continue to rise faster than inflation. So it now proposes to lift the 30 per cent rebate to 35 per cent for people between the ages of 65 and 69, and to 40 per cent for those aged above 70. The increased rebate will not lift membership levels amongst older people. It is simply a public subsidy designed to keep older people in private insurance cover where premium increases may otherwise discourage them from retaining their membership. However, the Department of Health and Ageing, in its submission to the inquiry into the bill, states that the effect on retention of these older Australians with their private health insurance will be marginal. In its submission it says:

To the extent that the fall in participation amongst the aged is due to declining income, it is expected that the increased affordability due to this bill will increase the retention rate slightly amongst older people with private health insurance.

Prime Minister Howard also stated last year that the increased rebate for older people would not encourage increased membership. He said:

The advice I have is that it will essentially reward people who already have private insurance.

The Senate Select Committee on Medicare concluded its 2003 report by saying:

... sufficient evidence has already been presented to cast doubt on the overall effectiveness of the PHI rebate in contributing to the improvement of Australia’s health system. In light of the large amount of money involved in the subsidy, and the alternative uses to which it could be put, these criticisms must be taken seriously.

The committee recommended that the government establish an independent inquiry to assess the equity and the effectiveness of the 30 per cent private health insurance rebate and the integral Lifetime Health Cover policy. The government has not adopted this recommendation but the Greens recognise that a thorough review of the rebate must be conducted. We are concerned, as are many others in the community, about the wastefulness of spending even more public funds on an insurance industry instead of spending the funds directly on public health services.

This policy fails the test of fairness. Access to health services is vital—it is literally a matter of life and death in many circumstances—yet under the government’s policy
greater access goes to those who can pay privately. The private health insurance industry rebate contributes markedly to this unfairness, with its dire social consequences and long-term economic costs of delaying treatment. Professor John Dwyer made the point simply when writing in the *Courier-Mail* last August, when he said that the private health insurance industry rebate is a scheme under which poor Australians who will never be able to afford private health insurance have their tax dollars used to support private health insurance for the wealthy.

The Doctors Reform Society, in its submission to the inquiry into this bill, noted that the expansion of procedures in private hospitals that has occurred in recent years has drawn doctors and nurses away from the understaffed public system. This has meant that the majority of Australians who do not hold private health insurance have suffered the consequences of continued resource shortages in the public system.

Professor Ian McAuley of the University of Canberra states in his submission that the one per cent tax penalty—that is, the Medicare levy surcharge—for single people who earn over $50,000 a year and couples earning over $100,000 a year exemplifies the ill-considered measures to underwrite private health insurance. The surcharge is levied on people without private insurance. If a person who meets the income threshold buys private cover, they avoid the surcharge in addition to receiving the 30 per cent rebate. This amounts to a further public subsidy for those purchasing private insurance. It can result in the perverse situation where the government is effectively paying people to take out private insurance.

Dental services provide a clear example of the undesirable equity outcomes of the rebate. Dr Richard Di Natale told the inquiry that through the rebate public funds indirectly paid for ancillary insurance cover worth $578 million in 2002, of which around $292 million was spent on private dental services. In contrast, the Commonwealth spent just $70 million on public dental services in 1999-2000. This inequitable expenditure of public funds is occurring at a time when around 44 per cent of Australians are reported to be unable to afford dental services.

La Trobe University health policy academic Professor Stephen Duckett released a study last week that cast doubt on the government’s claim that the rebate reduced pressure on public hospitals. He said:

This study confirms international research demonstrating that increased private hospital activity is associated with increased public hospital waiting times. It means that the Government’s private health insurance policies may actually be contributing to long waiting times for public hospital treatment.

While the government pours more money into this subsidy, it is causing Australians to spend more and more on out-of-pocket medical expenses at the time of service. This is happening to people who are not bulk-billed when they see their GP. It is happening to people who need diagnostic services like scans and ultrasounds. It is happening to people who need to see a specialist. It is happening to people who need to fill a script, including people with a serious illness or chronic condition who rely on their medication to stay well.

Australian National University academic Dr Gwen Gray, in her book *The Politics of Medicare*, published last year, states that the Howard government’s policy changes in health have reduced access to medical, diagnostic and a range of ancillary services. This has happened by increasing financial barriers. She says in her book:

New funding has been used to expand private insurance rather than increase Medicare services.
with obvious implications for timely access to hospital procedures for ‘Medicare only’ citizens.

Even the Medicare safety net, which Department of Finance and Administration figures show has already exceeded budget estimates in its first year, injects funds into an inflationary mechanism that presumes people will continue to pay high out-of-pocket expenses. As Dr Gray notes, the Prime Minister has distorted the meaning of universality that is supposed to underpin Medicare, reducing it to a universal entitlement to a Medicare rebate. She says in her book:

In his interpretation, it means that so long as everyone is eligible for reimbursement from Medicare for the cost of a medical service it doesn’t matter how small the proportion of the fee that the reimbursement covers ... People going to the doctor are entitled to a public subsidy but they have no idea what proportion of the medical fee will be covered, nor the size of the co-payment that they will be asked to pay.

Dr Gray refers to several studies whose results are disturbing. The Australian National Health Strategy in 1991 found that user chargers were causing people to forgo medical treatment. A more recent study by the Commonwealth Fund and the Harvard School of Public Health in the year 2000 found that 14 per cent of Australians on below average incomes reported problems paying medical bills. The same study found that costs prevented 21 per cent of people with below average incomes from filling their prescriptions, yet the government, with ALP support, increased the PBS patient charge by 21 per cent this year. User chargers also stopped 17 per cent of people getting a recommended test, treatment or follow-up. And 14 per cent of people did not see a doctor when they had a medical problem because of financial barriers being put in their way. Since this study, user chargers have increased. This is the health system that the coalition government is delivering for the Australian people. This is what we can expect more of from the Howard government, which has substituted progressive taxation with user charges as a way of funding essential health and medical services for all Australians.

The case for reform in our health system is overwhelming. The private health insurance rebate is part of the problem. It needs to be abolished and the funds need to be redirected to public health, where they could, according to the report of the Senate Select Committee on Medicare, pay for around 900,000 additional in-patient services in public hospitals every year. There are many other worthwhile ways to spend the funds allocated to the rebate. But it is not just a question of money. We need a better focus on primary health care, prevention and the social and environmental conditions that cause ill health. We need a better deal for Indigenous Australians, whose life expectancy falls so far short of non-Indigenous Australians and who suffer chronic illness and complications at rates far higher than other Australians. We need a better deal for people living in rural and regional areas. The National Rural Health Alliance says it is unacceptable that poorer people and those with less access to services are five times more likely to die of a preventable disease than wealthier Australians. The Greens agree.

We need to examine new financing arrangements for primary care, because relying primarily on fee-for-service medicine has failed us and it is an obstacle to giving more people access to primary health care. The disparity between bulk-billing figures for GPs in cities and rural areas exemplifies the problem. Health is big business and many people have a vested interest in keeping things as they are, no matter how socially unjust or economically irresponsible. The Australian Greens have a vision for a better resourced and fairer health system where...
cost is not a barrier to anyone seeing a doctor when they need to, nor to buying the essential medicines they need. Achieving our vision requires a genuine commitment to universal public health care funded through progressive taxation. It requires the abolition of the wasteful private health insurance rebate. That is why the Australian Greens will not be supporting this bill and that is why we need a review of the rebate to reveal the harm it is doing. I move the Greens second reading amendment:

Omit all the words after “That”, substitute:

“(a) further consideration of the bill be postponed and the bill be made an order of the day for the next day of sitting after the Government has completed a comprehensive independent review of the Private Health Insurance Rebate and has tabled a report on that review in the Senate; and

(b) senators who have spoken to the motion ‘That this bill be now read a second time’ may speak again to that motion for up to 20 minutes each when debate on the bill resumes’.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (11.58 a.m.)—I thank the senators who have contributed to the debate on the Private Health Insurance Incentives Amendment Bill 2004. This is a major election commitment, unlike the commitment to health that Labor had—the failed Medicare Gold—which they back-tracked from very quickly after the election. This is a further vote of confidence in the type of system most Australians choose and want: a strong and vibrant mix of public and private services and providers. We believe we have a mandate to deliver this measure to the Australian people, particularly to the hundreds of thousands of Australians over 65, the vast majority of whom have held their private health insurance for 20, 30 or 40 years and even longer. They are therefore fund members who predate the 30 per cent rebate, predate lifetime health care cover and predate Labor’s sustained attack on the private health sector through the 1980s and the first half of the 1990s until the Howard government came into office.

I also note the government’s appreciation that the opposition will not oppose the passage of this bill. I guess I would have to say that it is uncommonly sound judgment. When I was health minister they opposed quite a lot of bills. The Labor Party have to grapple with the fact that almost one in two Australians have private health insurance. Well over half the hospital admissions in this country are private admissions. Supporting the private system is not simply popular; it also reduces the pressures on the stretched resources of the public hospitals, administered by their Labor friends in the states. I would be looking to see if we might change that in WA very soon.

Let me just comment on the opposition of the Democrats and the Greens to the measure and the 30 per cent rebate generally. We have a world-class health system. It is a mixed system, as I have said before, with a strong public sector and a strong private sector, and both sectors cooperate to give Australians choice and access to high-quality and affordable health care. Government incentives, including the 30 per cent rebate, have encouraged Australians to take out private cover, lifting membership to 43 per cent of the population, from 30 per cent—that critical figure that a former health minister, ex-Senator Richardson, used to talk about; a level at which private health insurance was not viable. That figure was 30.1 per cent in December 1998. Now 8.6 million Australians have private health cover and can choose to receive treatment in private hospitals, as I
said, freeing up resources in public hospitals for public patients.

The 30 per cent rebate makes private health insurance more affordable for Australian families. It contributes around $800 every year to the health care costs of millions of Australian families, but for many the benefit is over $1,000. It also helps families on low incomes. Over one million Australians on incomes of less than $20,000 per year have private cover. This bill will make private health insurance more affordable for older Australians. It will increase the rebate from 1 April 2005 to 35 per cent for people aged 65 to 69 years and 40 per cent for people aged 70 years and over. The higher rebates will help to keep premiums affordable for over one million older Australians with private health insurance. Couples and families eligible for the higher rebates will save between $100 and $200 per year on top of the savings they already receive from the 30 per cent rebate. Many of these people have held private health insurance throughout their lives and this measure will reward them for maintaining that cover. I do not know why the Democrats and the Greens seem to think this is wrong.

Before closing, I want to make some comments about the savings provisions in this bill. The higher rebates relate to the policies of eligible people aged over 65. Eligible policies can include people who have not yet turned 65, but this is an age where spouses and partners inevitably die or otherwise permanently leave their family groups. Even at this age, some older couples, sadly, separate and divorce. The bill therefore provides that policies covering widowed and divorced spouses and dependent children, including students over 18, may continue to attract the higher rebate until such time as the member’s personal circumstances change or a new policy is taken out, such as a widow under 65 moving from couples cover to singles cover. This is the government’s intent and will apply in the administration of the new rebates. Nobody will be, as has been claimed, kicked off their cover.

In consultations on implementing the new rebate, some queries have been raised about the practical operation of these savings provisions, particularly in situations where there is only a small possibility of this occurring in the future. It is possible that new arrangements will need fine-tuning after practical experience of their operation. As the Minister for Health and Ageing said in the House of Representatives yesterday, the government will therefore monitor the implementation of the seniors rebates, review their operation after the first six to 12 months and, if necessary, amend the legislation to fine-tune it. I commend the bill to the Senate.

Question negatived.
Original question agreed to.
Bill read a second time.

In Committee
Bill—by leave—taken as a whole.

Senator NETTLE (New South Wales)
(12.04 p.m.)—I move Australian Greens amendment (1) on sheet 4502:

Page 2 (after line 5), after clause 3, insert:

4 Cessation and review of operation of Act
(1) This Act ceases to operate on 31 December 2005.
(2) The Minister must cause an independent review of the operation of the private health insurance rebate to be completed by 31 December 2005.
(3) The minister must cause to be tabled in both Houses of the Parliament a copy of the report of the review within 15 sitting days of receiving the report.

This amendment provides a sunset clause for the bill and it requires that an independent
review be carried out into the operations of the private health insurance rebate. As I mentioned in my speech in the second reading debate, this was the recommendation of the Senate committee that looked into Medicare in October 2003. At that time the Labor Party proposed a review as part of the majority report for that committee. I also note that the Minister for Health and Ageing, Mr Abbott, in his speech in the House of Representatives yesterday, indicated that the government will review the operations of this incentive for the private health insurance rebate after the first six to 12 months. There has certainly been an indication from both of the major parties that they would like to see a review of this, so I look forward to seeing their support.

I also comment on some remarks that were made during the debate on this piece of legislation in the House of Representatives yesterday, in a speech that was given by the Labor member for Lyons, Dick Adams. He spoke about the inequity that exists in the private health insurance rebate—issues that were also raised in the dissenting report by senators who were part of the committee which looked at this legislation. He said:

If you happen to be at the lower end of the income scale there is no way you will be able to afford the insurance and pay for all the other necessities of a working family.

He also said:

... if we had a proper Medicare system which was available to all, and which was developed in the way it was originally intended, there would be no need to have all these rebates.

Yesterday he asked a very worthwhile question:

Wouldn’t it be better to put the funds that are being used to subsidise private companies into our public health system to pay for more doctors, more nurses, more health infrastructure, more dialysis machines, more equipment to help cancer patients and more general health surveys? There are millions of different health issues that would benefit if those funds were used to pay for health infrastructure.

That is a very worthy question and a sentiment that the Greens agree with. Later on in his speech he said:

... if we are to see any change in quality of care and waiting lists in the public sector it will not come through beefing up the private sector; it will come through funding the public sector properly.

He went on to say:

... the rebate distributes money the wrong way. It is not good health policy if you intend to get as many health services as you can for your dollar...

These are sentiments that the Greens agree with and have been saying for many years. It is a wasteful private health insurance rebate. Recommendations have been put forward to say that it needs to be reviewed. They were put forward and supported by all of the opposition parties in the Senate during consideration of the Medicare committee report, and yesterday the minister indicated that the government also intends to review this legislation. So we look forward to support for this Greens amendment.

**Senator Allison** (Victoria—Leader of the Australian Democrats) (12.07 p.m.)—The Democrats will support this amendment. I think it is fair to say that the evidence that was brought before the committee again showed that it is unlikely that the government’s claims for these amendments will deliver on what they say are their objectives. The least this place can do is agree to ask the government to review the legislation on the basis of those claims. So we will be supporting this amendment.

**The Temporary Chairman** (Senator Chapman)—The question is that the amendment moved by Senator Nettle be agreed to. Those of that opinion say aye and those against no. I think the noes have it.

**Senator Nettle** (New South Wales) (12.08 p.m.)—I stood up before we took that
vote. I was wondering whether we were not going to hear from the opposition and the government as to why they are not supporting recommendations that yesterday the health minister called for and indicated that the government would be doing. Last year the Labor Party recommended that the Senate carry this review out into the private health insurance rebate.

The TEMPORARY CHAIRMAN—It is up to other senators whether they choose to speak, Senator Nettle. The question is that the amendment moved by Senator Nettle be agreed to.

Question negatived.

Senator NETTLE (New South Wales) (12.08 p.m.)—I note the opposition of both the major parties to proposals that they have supported in recent times but not today.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (12.08 p.m.)—The Democrats oppose schedule 1 in the following terms:

(1) Schedule 1, page 3 (line 2) to page 9 (line 6), TO BE OPPOSED.

This gives effect to our opposition to the bill but it acknowledges that, in schedule 2, the provision which clarifies that veterans with gold cards will be exempt from lifetime health cover provisions is supported by us.

The TEMPORARY CHAIRMAN—The question is that schedule 1 stand as printed.

Question agreed to.

Senator NETTLE (New South Wales) (12.08 p.m.)—That this bill be now read a third time.

Question agreed to.

Bill read a third time.

BUSINESS

Rearrangement

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (12.10 p.m.)—I move:

That the following government business orders of the day be called on immediately and considered till not later than 2 pm today:


No. 5 Australian Sports Commission Amendment Bill 2004 [2005].


I seek leave to make a short statement.

Leave granted.

Senator PATTERSON—There was some discussion that there would be an agreement that government business orders of the day nos 4, 5 and 6 be called on. I have just been advised that the opposition is not in a position to debate No. 4, so I seek leave to vary the motion.

Leave granted.

Senator PATTERSON—I move:

That the following government business orders of the day be called on immediately and considered till not later than 2 pm today:

No. 5 Australian Sports Commission Amendment Bill 2004 [2005].


Question agreed to.
AUSTRALIAN SPORTS COMMISSION AMENDMENT BILL 2004 [2005]

Second Reading

Debate resumed from 8 December 2004, on motion by Senator Ellison:

That this bill be now read a second time.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (12.12 p.m.)—The Australian Sports Commission Amendment Bill 2004 [2005] is a bill which I am sure a number of people will speak to. (Quorum formed)

BUSINESS

Rearrangement

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (12.16 p.m.)—by leave—Obviously, that bill went through much faster than people anticipated. At quarter to one we will debate non-controversial bills and, in order to assist the orderly progression of the Senate, I move:

That the sitting of the Senate be suspended until 12.45 p.m.

Question agreed to.

Sitting suspended from 12.17 p.m. to 12.45 p.m.

The DEPUTY PRESIDENT—Order! It being 12.45 p.m., we will proceed to non-controversial legislation.

Senator Lundy—Mr Deputy President, I will just make sure I am at the right place in the program. I intend to give a speech in the second reading debate on the Australian Sports Commission Amendment Bill 2004 [2005].

The DEPUTY PRESIDENT—That is the bill that we are considering.

Senator Chris Evans—Mr Deputy President, given the confusion that seems to surround the government’s handling of legislation today, just for the benefit of those senators in the chamber and those perhaps waiting to speak, could you indicate the order in which non-controversial legislation will be dealt with. There is some confusion on our side. I gather the order has been changed and I would like to double-check that.

The DEPUTY PRESIDENT—I understand that the order of business before the chair, as indicated on the red, is No. 5 followed by No. 6 and followed by No. 4. If the government seek to change that, they will move the appropriate motion, Senator Evans.

Senator Chris Evans—Thank you, Mr Deputy President. That is very helpful. I always thought four came before five, and that is why I was operating under a misapprehension. But it has been changed—which is perfectly acceptable, but I just wanted to be clear. So we will go in that order.

The DEPUTY PRESIDENT—That is the order I have been given, Senator Evans.

AUSTRALIAN SPORTS COMMISSION AMENDMENT BILL 2004 [2005]

Second Reading

Debate resumed from 8 December 2004, on motion by Senator Ellison:

That this bill be now read a second time.

Senator LUNDY (Australian Capital Territory) (12.46 p.m.)—Mr Deputy President, I also note the disarray in which we find ourselves in the chamber today with respect to the former suspension of sitting, given that the government ran out of bills on the government program. That is quite extraordinary.

Labor is supporting the Australian Sports Commission Amendment Bill 2004 [2005] and the amendments to the Australian Sports Commission Act. We do so because it is a
good example of too little, too late by this government. Long has Labor been critical of the government’s lack of effort in stamping out drug cheats in sport. Labor is of the view that this government has consistently failed to act quickly on drugs in sport issues. Much to the embarrassment of the Howard government, it is Labor that has led the way, even from opposition, in the fight against drugs in sport. Of course, it was a Labor government that took action to stamp out the use of performance-enhancing drugs in sport with the establishment of the Australian Sports Drug Agency, ASDA, back in 1990, and it is Labor that has consistently put forward policies to eradicate drugs from sport.

We need only look at the background to this bill to see just how slow the government has been to act. Even when faced with allegations of widespread drug use in a facility they own, the government failed to respond—certainly with any decent haste, given the severity of and concern about the incident at the time. It was only after my colleague Senator Faulkner and I raised concerns in this place about doping practices at the AIS Del Monte cycling facility and followed up our concerns in Senate budget estimates last May that the government was reluctantly dragged into taking some action.

The concerns raised in this place related to allegations of the use of the banned substances equine growth hormone and Testicomp by members of Australia’s cycling team. Cleaners found evidence in a room at the AIS Del Monte facility that the room was being used as an injecting room for performance-enhancing substances. It is significant that it was cleaners who found this evidence of drug use and not the government employed manager of the facility or, indeed, team officials. Rather than investigating fully these allegations as soon as the sharps bucket was found at Del Monte, the government certainly fumbled the ball. It is worth while analysing what the government’s reaction was. The bottom line is that it was pathetic. In a series of actions that could only be described as being in the best traditions of the Inspector Clouseau character created by the late Peter Sellers, the government tried to cover it all up until after the Athens Olympic Games.

Let us have a look at what the government did. They instigated a series of quite amateur and secretive investigations by coaches, Australian Sports Commission bureaucrats and a lawyer contracted by the Australian Sports Commission. So ineffective were these investigations that it is probably being kind to describe them as being like those of Inspector Clouseau; they were more akin to something from the Three Stooges. I think that whole exercise added to the damage that was being done to Australian athletes and—certainly it is quite scandalous—encompassing the sport of cycling.

The subsequent inquiry by Mr Anderson QC into the allegations identified a raft of inadequacies and incompetence that really challenges the imagination. There is no doubt that it was only after persistent questioning by Labor in this place that the government was forced into engaging Mr Anderson anyway. It we had not pursued the matter, I have no doubt that it would have been covered up. What made the situation worse was that the government had been warned of problems with some sporting organisations not submitting timely drug testing information. For example, in May 2003—a full year before—we were able to draw out evidence of problems between the Australian Sports Commission and ASDA on the tardiness, in some cases, of sporting organisations being required to submit in a timely way their drug testing information.

How did the minister respond to this? Did he reinforce the importance of maintaining a
consistent drug testing regime support for sports or did he back up the head of ASDA, who identified these deficiencies? At the time, he did not. At the time the minister just issued a written statement indicating that, on the matter, the differences between the Sports Commission and ASDA had been settled. There was no effort on behalf of the minister. We can only speculate that, if the minister had responded to these problems drawn out and highlighted by Labor through our questioning in Senate estimates, the Del Monte affair would have been handled in a far more competent, timely and appropriate way.

In his report into the doping allegations at Del Monte, Mr Anderson made wide-ranging recommendations which show just how underdone this government’s approach to drugs in sport really is. I would like to detail some of the recommendations made by Mr Anderson. He recommended introducing into all AIS athlete agreements a provision allowing for random room searches at residential facilities; implementing a system of random room searches; allocating the task of conducting room searches to staff other than coaches and support staff who have regular interaction with athletes; involving agencies such as the Australian Federal Police and the Australian Sports Drug Agency in the process of designing random search procedures and training designated AIS staff; initiating regular consultation between the designated searchers and ASDA to share intelligence on the latest trends in sports doping practices; establishing clear policies for AIS athletes in relation to the practice of self-injecting; and building an education program into the existing drugs in sport education and counselling programs with the specific aim of installing the idea, especially in young athletes, that they not only should refrain personally from drug taking but also must be intolerant of it in their sport and be prepared to join in the efforts to eradicate it.

What has happened since? Consistent with the government’s previous actions, not much. On 19 November 2004 it was reported in the Age that the Australian Sports Commission CEO, Mark Peters, had announced that the power to search athletes’ rooms had been written into the AIS scholarship agreements. It is significant that I can find no statement from the minister in relation to the implementation of this recommendation. With regard to the other recommendations of Mr Anderson, the situation is just as unclear. Late last year the minister released a paper prepared by the Department of Communications, Information Technology and the Arts entitled ‘Discussion paper about proposed legislation affecting Australian arrangements for the investigation and hearing of sports doping allegations’. The discussion paper looks at legislating to establish an independent board called the Sports Doping Investigations Board by legislation, with members appointed by the Commonwealth minister for sport and recreation. What are the odds that such a body would end up with representatives from the Australian Sports Commission or national sporting organisations on the board? They are pretty good, I would imagine. Establishing a board is not the answer.

Of course, this is not a new proposal. In March 2003 the minister announced that a working group comprised of portfolio agencies would be consulting with the Australian Olympic Committee, the Australian Commonwealth Games Association and national sporting organisations on the possible establishment of an independent tribunal. Nearly two years later, we are still yet to learn the outcomes of the deliberations of this working group. In March 2004 the President of the Australian Olympic Committee, Mr John Coates, wrote to me as the then shadow min-
ister for sport enclosing a copy of the AOC’s proposal to establish a sports doping ombudsman, which had been proposed to the government prior to the Sydney Olympics and more recently, in April 2004, to Minister Kemp.

What was the government’s response to this call from one of Australia’s most prominent sports officials? In July 2004, some months later, a spokesperson for the minister was cited in the *Age* as saying that the minister was close to announcing the establishment of an independent agency to investigate all sports drug agencies. The need for the minister to consider fairly weighty legal issues was given as a reason for the delay. I think the question has to be asked: do we have to wait for another major sports drug scandal before the minister finally acts on this issue? Will it be necessary for Australia to once again be embarrassed before the international sporting community in the lead-up to the 2006 Commonwealth Games before the minister finally acts to establish an appropriately independent body? It really is an extraordinary situation. We have a government willing to take the highest possible moral ground on eradicating drugs from international sports but unwilling to address the situation in a practical sense in its own backyard. I have to say that the minister will provide all of the appropriate rhetoric about drugs in sport—and I have certainly had several exchanges with Senator Kemp on this issue—but the activity just does not follow that rhetoric up.

Labor believes that the answer is to establish a sports drug investigation capacity as part of the Office of the Commonwealth Ombudsman. It believes that the expansion of the Office of the Commonwealth Ombudsman would reduce the need for new legislation, avoid the need to duplicate administrative structures and make use of the extensive experience in undertaking reviews and investigations already present in the Ombudsman’s office. There will be a need for legislation to achieve this. We call on the government to act on this suggestion as a matter of urgency. The legislation should empower the Commonwealth Ombudsman to work with state and federal police departments and ASDA to investigate, search and prosecute alleged incidents of doping in sport. All incidents of doping in sport within Australia’s borders, including the importation of banned substances, should be referred to the expanded office of the Ombudsman. Under Labor’s proposal the Ombudsman would also represent federal government agencies at any hearings in the Court of Arbitration for Sport.

Labor recognises that many NSOs have developed their own antidoping policies based on the World Anti-Doping Agency guidelines, but it believes that the community wants a more consistent approach to sports drug incidents. It is hard for the community to understand why there is variation in antidoping procedures and penalties between sports. Establishing a new board as proposed by the government, irrespective of how prominent its members may be, will not address this problem. Australians want certainty and consistency about how drug cheats are dealt with.

In that context I will now address the bill before the Senate. The amendments are clearly designed to close a gap in the current legislation. Given the retrospective application of the amendments, it is also reasonable to presume that proscribed information has been informally disclosed to the Australian Sports Commission in the past. If this did occur, at least this legislation seeks to regularise the situation and put in place some measures to protect the privacy of athletes accused of being drug cheats. I should say that what the bill aims to do is allow for the disclosure of protected personal information
under the Customs Administration Act 1985 to the executive director of the Sports Commission for use in the investigation and implementation of antidoping policies. The unauthorised release of test results that occurred during the Australian Open is a good example of the damage that can occur if there is no regulatory structure around drug testing, investigations and allegations.

Despite this, the need for retrospective legislation is indicative of this government’s approach to many of the contemporary issues it faces. There is no strategic plan. There never has been a strategic plan. It is a mode of operation that reacts to events that have already occurred rather than formulates policy and legislates in a logical and thoughtful manner. Something that the Labor opposition has made clear is that, on this issue, we will support the government 100 per cent as we are supporting this bill. In the case of this legislation, what thought has the government given to what happens when it finally decides to act on Mr Anderson’s recommendation to establish an independent drug investigations body? There are important questions, such as: what would the role of the Australian Sports Commission be in that new environment, and will there be a need to further amend this act once the new body has been established?

The amendments to the act that we are dealing with today would have been an opportunity for the other recommendations in the Anderson report to have been implemented in a more comprehensive way. That opportunity has now come and gone. It has been lost. The amendments we are dealing with will allow the Executive Director of the Australian Sports Commission to release proscribed information received from the CEO of Customs to Australian Sports Commission officials and sporting organisations for the purpose of investigating and implementing antidoping policies. The bill provides for such information to be released only if the Executive Director of the Sports Commission is satisfied that the information should be disclosed to another person in the course of taking action under an antidoping policy of the Australian Sports Commission. Specifically, the executive director must be satisfied that the disclosure of the information will not contravene any term of the authorisation under which it was disclosed to the Australian Sports Commission by Customs.

Specific conditions under which the executive director can release proscribed information are set out in the bill. We take these conditions on face value. They are that the executive director must be satisfied that the information to be disclosed is for the permitted antidoping purposes of the organisation to which it is to be released and that the organisation has given a written undertaking that (1) the information will be used or disclosed only for permitted antidoping purposes of the organisation and (2) the organisation will take reasonable steps so that the information will not be used or disclosed by a person to whom the organisation has disclosed the information in a way that is unfairly prejudicial to the interests of the person to whom the information relates. This includes being satisfied that the disclosure of the information would not contravene any terms of the authorisation under which the protected information was disclosed to the ASC by Customs and that the person to whom the information relates is accorded natural justice, as required by the new proposal by the bill before information is disclosed.

Labor understands the need for information to be passed to other officials and relevant NSOs, but we are concerned to ensure that the protocols and procedures associated with this are clearly spelt out and subject to public scrutiny. To this end, I again call on
the minister to give an undertaking that the procedures developed by the Executive Director of the Australian Sports Commission to govern the release of proscribed information to ASC officials and to other sporting organisations be made publicly available. This will ensure all athletes understand the procedures and can be assured that the privacy of individuals is appropriately protected.

The bill includes a provision requiring the Executive Director of the ASC to advise an affected athlete of his or her intent to release proscribed information and for a written submission to be made on the matter. The Executive Director of the ASC must advise the manner in which and the conditions under which the disclosure of proscribed information is to be made. This includes specifying the form in which the information is to be presented and the mode of transmitting the information. The Executive Director of the ASC is prohibited from disclosing the information to others until the submission period has ended and any submission received considered. Written notice of any proposed disclosure to an athlete or their nominee must advise the person that receipt of a submission before the end of the specified submission period has the effect of shortening that period.

At the 2004 federal election, Labor put forward a plan that we think would have tackled the problem of drugs in sport more effectively. It was a plan that, had we been elected, we could have implemented. Because we were not, we now continue our role in placing pressure on the government to take those initiatives. In contrast, the government continues to set a slow pace. The message that sends to potential or current drug cheats is not the right message. If they think that they can get away with it and will not be discovered in their efforts then how on earth does this legislation stand as a disincentive, let alone a meaningful regime in which to expose that unlawful behaviour?

Labor support this bill because we have to. What other option do we have in a policy vacuum? We would have liked to have seen a more comprehensive response to the Anderson report. As I stated on a number of occasions, these issues should have been dealt with in a proactive and visionary policy manner reflecting that of the former Labor government on drugs in sport. I think the lack of leadership or policy direction to rid sport of drug cheats once and for all by this government insults athletes who train hard to perform their best for this country without the aid of performance-enhancing drugs. This bill does address a very small part of the activity required to continue the fight against drugs in sport, and we will keep pressure on the government to respond to all of the recommendations in the Anderson report—which was certainly not, in my view, as comprehensive as it could have been either—and to establish, in accordance with policies Labor have advocated previously, an independent tribunal to investigate and deal with sports drugs allegations.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.06 p.m.)—I might respond to some comments made by Senator Evans with respect to what occurred here between 12.15 and 12.45 p.m. As is the practice, Labor continue to try and rewrite history. In fact, if the Labor Party had been prepared to debate the legislation that was actually on the agenda, we would not have had to suspend the chamber.

Senator Lundy—We were.

Senator COLBECK—Where were you then? We were here waiting for you.

Senator Lundy—Madam Acting Deputy President, I rise on a point of order. I am just astounded that Senator Colbeck is reflecting
on Labor as somehow being not ready to proceed with the government’s legislative agenda. We were all in the building ready to debate this legislation.

The ACTING DEPUTY PRESIDENT (Senator Kirk)—There is no point of order.

Senator COLBECK—Thank you, Madam Acting Deputy President. I have to say I am almost surprised that we had to wait 30 minutes for what we got. Perhaps we might expect that Labor could respond to the Anderson report and apologise to the sporting fraternity in Australia because I think they have done more damage to Australia’s reputation in the allegations that were falsely raised by the—

Senator Lundy—Brush it under the carpet.

Senator COLBECK—You need to read the report again perhaps, Senator, because that found no grounds for suggesting a cover-up. Perhaps Senator Faulkner might like to apologise to the people whose reputations he caused so much damage to with the false allegations that he raised of shooting galleries, which were found not to be true by the Anderson report of which you have just been extolling the virtues.

To expedite passing of the legislation—

Senator Wong—Are you going to apologise to Cornelia Rau?

Senator COLBECK—I have never heard you guys apologise to anybody, so perhaps you ought to really consider that. I have not heard anyone from the Labor Party apologise to anybody in the history of my time around here.

Senator Sherry—Is this relevant?

Senator COLBECK—You are probably right, Senator Sherry. I am, however, pleased that the Labor Party is prepared to support the legislation and 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.

FINANCIAL FRAMEWORK LEGISLATION AMENDMENT BILL 2004

Second Reading
Debate resumed from 8 February, on motion by Senator Ian Campbell:
That this bill be now read a second time.

Senator SHERRY (Tasmania) (1.09 p.m.)—I rise to speak on the Financial Framework Legislation Amendment Bill 2004. It is good that we are dealing with what is a very important piece of legislation in non-controversial business, though it deals with an extremely controversial set of issues and circumstances that I will go into detail about in a short while. It is worth noting, however, that the Senate had to adjourn for an early lunch break at 12.15 p.m. It is the first time that I can recall this happening in recent times, and it is due to the incompetence of this government and their arrogance in running out of business. I am just astounded that they—

Senator McGauran—No.

Senator SHERRY—Senator McGauran interjects—the well-known dynamic National Party Deputy Whip who is probably responsible for part of the mess.


Senator SHERRY—Oh, you are a whip, are you? We had to go for an early lunch break of half an hour—the first time that I can recall that in recent Senate history—because the government did not have sufficient business to go on with as listed on the agenda.
Let us get on with what is being treated as an uncontroversial piece of legislation but which involves a very controversial set of circumstances and financial mismanagement—a mess that we are cleaning up as a consequence of dealing with this bill. The bill is an omnibus bill and it aligns the financial provisions of 85 Commonwealth acts with the provisions of the Financial Management and Accountability Act 1997 as amended by the Financial Management Legislation Amendment Act 1999.

When you read the second reading speech—traditionally tabled by the responsible minister who, in this case, is Senator Minchin, the Minister for Finance and Administration—you could be forgiven for thinking that the bill contains nothing but minor housekeeping amendments. However, I need to place the bill in some historical context, because it is a very significant overhaul of the financial framework of the Commonwealth. It is designed to correct significant failings in the operation of the financial management framework of the Commonwealth government. I stress that it is designed to overhaul the failings of the financial management of the Commonwealth—financial management that this Liberal government itself introduced and which has been such a disaster. Here we are, some seven or eight years later, having to clean up and effectively reverse all of that because of the problems that emerged.

In 1999 the Financial Management and Accountability Act was amended. It was following these amendments that the new financial framework began to experience significant problems. As a result, since 2002 we have seen the Liberal government seek to quietly cover up and keep secret many of the problems that emerged. It has sought to do this as quietly as possible for obvious reasons, including that it would damage its fairly sordid reputation in this area.

What the government effectively has sought to do is re-establish many of the centralised controls which had been abandoned. The Financial Framework Legislation Amendment Bill before the Senate today is the latest and most substantial attempt yet to re-create and shore up the existing financial management of the Commonwealth. It is worth noting that the original act of 1999—I have got it here—runs to 16 pages. I have got the amendment bill today. Normally, you get a few pages of amendments to an original bill. In a 16-page bill you might get a couple of pages of amendments. You have to update—it is understandable. But what have we got? We have got 130 pages of amendments to a 16-page bill. That in itself indicates just how massively the Liberal government has

which was re-elected in 1996, we had this great boast from the Treasurer, Mr Costello. He said, ‘We’re going to introduce more transparent and informative public accounts.’ That is what he said at the time when introducing a number of new financial management acts: the Financial Management and Accountability Act, the Auditor-General Act and the Commonwealth Authorities and Companies Act. These three new financial management acts were supposedly going to create a magnificently new transparent financial management regime. What we are dealing with here is a bill to effectively reverse all of that because of the problems that emerged.
had to rewrite and bring under control the financial management framework of the Commonwealth. Just look at it: pages and pages of amendments—pretty small type too—to the original bill that only ran to 16 pages.

The failures of the financial framework that this Liberal government introduced back in the 1997-98 period did come to light. It was like extracting teeth at estimates. I was involved, but my colleague Senator Conroy and others also spent a lot of time and effort at Senate estimates hearings. In particular, I want to highlight and congratulate the Auditor-General, one of the last bastions of independence we have got in this country—it will be even worse after 1 July, I suspect, when this government takes full control of the Senate. I want to acknowledge and congratulate the Auditor-General’s reports, which have been released over the last few years—and I will go into a couple in detail shortly. Without that scrutiny of the Auditor-General, an independent Auditor-General, highlighting the problems that occurred over a number of years and without the effective scrutiny of a number of senators at Senate estimates these problems would have remained uncovered.

In the November estimates of 2002, the Department of Finance and Administration was asked—it was a pretty innocuous but very important question—to provide total receipts, payments and the closing balance of the consolidated revenue fund for each financial year since 1998-99. The department had to take that question on notice. The finance department is supposed to know and have this information. It is fundamental. The finance department does need to know what is occurring with total expenditure and payments right across all Commonwealth government activity, but it did not know. It had to take the question on notice. It later told the Senate that the department does not hold that information but that ‘going forward, we are trying to ensure that we can collect better information in this regard’. This was a remarkable admission by the department of finance.

In the 2001-02 annual report of the Department of Finance and Administration, the department describes its own role as the chief financial officer of the Commonwealth. In May 2002, ASIC, the corporate regulator, described the role of chief financial officer as the ‘guardian of the books’. That is the department of finance. Yet the guardian of the Commonwealth books, in terms of financial management, was unable to tell the parliament through the estimates committees the total amount of money received and paid out by the government in each of the financial years from 1998-99 to 2001-02. It was unable to tell the parliament and the people of Australia the total amount of cash that was being held.

Governments have always previously been able to provide what is very basic information. In fact, they were required to do so under the Audit Act 1901 and then it was repealed in 1997 by the current Liberal government. That is when this new financial framework was introduced. It was amendments to the Financial Management and Accountability Act in 1999 that triggered the events that led to the department’s quite remarkable admission. I do not know of many other governments in the world, certainly Western governments with traditional accounting processes and procedures, that do not know how much cash and expenditure a government has on hand at the end of the financial year.

Part of this was the process of moving to accrual accounting, but it so botched this that the government had lost track of cash. I am not criticising the public servants. From my time going to department of finance esti-
mates over this period, I am going to criticise one public servant: Dr Boxall. He is a mate of this government. He is a political appointment. He was appointed to the department of finance and given the task of overseeing this so-called new financial management framework. He gutted the department. I have never seen a collapse in morale amongst hardworking, dedicated public servants like that which occurred under Dr Boxall’s regime.

The parameters were set for this collapse by the current Treasurer, Mr Costello; the former finance minister, Mr Fahey; and the current finance minister, Mr Minchin. They were the ones who had this ideological view that the financial framework had to change. They put in their mate Dr Boxall. He carved through the department of finance—goodness knows, hundreds of public servants lost their jobs. He ultimately lost his job, I might say. Dr Boxall had to be shifted sideways. They devolved all the financial management from within the department of finance into each government department. It sounds like a great idea but it all fell to pieces very quickly. Finance lost a lot of skilled, hardworking and dedicated public servants. They lost their jobs and the departments to which they devolved this new financial framework—I do not blame them—did not have the skills and expertise to administer the new system. So over three, four or five years things got so bad in terms of financial management that we have reached the point today where it all largely has to be reversed.

The explanatory memorandum of the 1999 bill stated:
Requirements for debiting and crediting all cash transactions to a fund account in a central ledger will be removed.

This meant devolving it back to government departments. It went on to say:

In future, transactions of agencies will be processed and recorded in their own accounting systems. The amendments will therefore facilitate the move to devolved accounting and banking arrangements for agencies, consistent with more business like approaches used in the private sector.

Hence, responsibility for receiving and paying money went from the Department of Finance and Administration back to individual agencies—so-called agency banking; they became their own banks. Moreover, responsibility for accounting for these transactions was also devolved to agencies. This, according to the government, was consistent with private sector practice. However, most, if not all, private sector companies centralise their treasury and accounting functions; they do not devolve them to different parts of the business.

I am unaware of any private sector company that has disaggregated its treasury and accounting functions in the way the Commonwealth has. In light of the Commonwealth’s experience, no private sector corporation is ever likely to follow the government’s example. This would make a magnificent case study in financial incompetence. It was a poor policy, ideologically driven and incompetently implemented, and it would make a great case study in what not to do in financial management.

The government has done a complete U-turn four years on. After the government implemented its new financial framework it quietly abandoned this decentralised model for managing and accounting for cash. In November 2002 agencies were informed in a memo that Finance would once again exercise control over the money. Agencies would no longer be able to draw down their appropriations as they saw fit. Finance told agencies that from now on cash would only be released as needed under a just-in-time draw down model. This was one of just 20
changes contained in memos intending to address the problems and the failings of this new financial framework. There was a great scramble to fix up the framework, and it is evident in the number of circulars released by Finance since 2002 to clarify—and ‘clarify’ is jargon—its operation. Finance released 28 memos dealing with core elements—for example, appropriations management, special accounts, trust accounts, investments and foreign exchange management, and the list goes on.

This was a low-key approach. It was effectively a cover-up. The Treasurer, Mr Costello, boasted about this magnificent new financial management system, but at no point has the Minister for Finance and Administration or the Treasurer admitted publicly to the significant problems that emerged and said, ‘We’ve had to reverse it and largely go back to the old approach.’ We do not see any grand new claims about magnificent new financial frameworks as a result of the bill we are considering today.

During estimates, Finance were also asked to tell the committee what was available in terms of receipts and payments into and out of special accounts and balancing special accounts—again, information available under the old framework. Once again, management of these accounts had been devolved to agencies and once again Finance were unable to provide data on the hollow log accounts. Each department was setting up their own hollow log accounts, trying to hide things and spend money as it suited them, with reduced accountability. Some $20 billion, according to our research, was being held in various new accounts set up by departments. But this information is now published in portfolio budget statements.

Successive audit reports have highlighted significant weaknesses, and I raised a number of questions about those in question time last year with the current minister for finance. The Department of Finance and Administration, which is responsible for developing and maintaining the financial framework of the Commonwealth public sector in terms of accountability and transparency, was examined recently by a National Audit Office report. Audit report No. 15 assessed departmental financial management and reporting. I have rarely read a more scathing report by the Auditor-General. The following are only a few of the highlights. There were drawings by five entities, relying on incorrect appropriations, from 1998-99 to 2002 totalling some $393 million. That is not small change. The next one is a real ripper: spending by one department against legislation that had not been passed by parliament—in other words, they spent it illegally; they had no authority—between 2001 and 2003 totalling $7.26 billion.

There was spending by two entities that was not approved by the parliament, totalling $23 million, $6.96 million of which was in breach of section 83 the Constitution; and failure by two entities—government departments—to disclose payments totalling $13.1 billion. In January 2005 another audit report, No. 22, Investment of public funds, revealed significant problems in the management of government investments. ANAO identified that at least 11 entities and up to 13 entities had purchased and reported holding investments not authorised by relevant legislation, investments worth more than half a billion dollars. There are more and more examples of this.

The Minister for Finance and Administration, Senator Minchin, is not here. He has never wanted to fess up and own up to the problems. Senator Colbeck is here. I also notice finance department advisers here who are well aware of this mess. Senator Colbeck might like to acknowledge the failure of the financial framework, explain why this chaos
continued over four or five years, explain whether further legislation is going to be needed to fix up any other problems, confirm that this bill is not in response to any identified illegal activities and confirm that it will have no retrospective impact, either literally or in practice—that is, that the Liberal government will not seek to use the bill to defend past illegal expenditures under a system that it set up itself. (Time expired)

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.29 p.m.)—The Financial Framework Legislation Amendment Bill 2004 is largely a housekeeping exercise which makes a number of amendments to refine aspects of the Australian government’s financial management network. In doing so, it proposes amendments to 112 acts and the repeal of 28. Contrary to Senator Sherry’s comments earlier, the bill does not reverse the changes of 1997 or developments of 1999. It implements textual changes to specific acts in a consequential manner. This has been recognised by the Joint Committee of Public Accounts and Audit.

The Senate debate represents a culmination of a lengthy process of consultation which has seen the bill subjected to a great deal of external scrutiny. When enacted, the bill will update, clarify and align a wide range of financial management provisions applying to a range of activities and entitlements and thereby continue to enhance the financial management framework of the Australian government generally. 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.

FAMILY ASSISTANCE LEGISLATION AMENDMENT (ADJUSTMENT OF CERTAIN FTB CHILD RATES) BILL 2004

Second Reading

Debate resumed from 9 February, on motion by Senator Coonan:

That this bill be now read a second time.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (1.31 p.m.)—I rise to speak on the Family Assistance Legislation Amendment (Adjustment of Certain FTB Child Rates) Bill 2004. Labor do support the passage of this bill through the Senate. We support it because it protects Australian families from the ill effects of changes made to the indexation arrangements for family tax benefit A for children aged under 13 and children aged 13 to 15 in the 2004 budget.

Labor support this bill because, in fact, it was Labor who picked up the mistake that was made by the government in the first place. It was Labor who focused public attention on the fact that the new indexation arrangements would erode the value of the $600 FTB supplementary payment over time. So we support this bill which reverses the negative effect that the government has been in denial about for so long. In fact, we would have liked to have supported this bill months ago; we would have supported it in the last parliament. But, because of the minister’s unwillingness to come to terms with what had happened, the bill was not brought before the parliament. The fact that we are debating the bill today is proof of what Labor said so strongly for so long: the measures in the 2004 budget were either an attempt to dupe Australian families or, quite simply, the legislation was flawed, a result of policy on the run, badly written and badly thought out.

It is obviously a major embarrassment to the government and a huge embarrassment to
the minister for several reasons. I will discuss some of those reasons in a moment, but first, for the minister’s information, I would like to discuss the bill itself. It is clear from the minister’s handling of this issue that her grasp of the detail has been, at the very least, shaky.

The bill amends the family tax benefit adjustment provisions in schedule 4 of the Family Assistance Act 1999 for the FTBA under 13 and age 13 to 15 child rates. Under this amendment, if the FTBA under 13 child rate—as indexed by the Consumer Price Index—is less than the amount worked out using the formula CPC rate times 16.6 per cent, where CPC refers to ‘combined pensioner couple’, then the FTBA under 13 rate is increased to the amount determined under the formula. The same applies for the FTBA age 13 to 15 child rate, except that the formula is CPC rate times 21.6 per cent. These are known as the safety net benchmark provisions. They were introduced by the previous Labor government to ensure that Australian families received adequate fortnightly assistance payments. They were carried through into the Family Assistance Act 1999 introduced by the current government.

The arrangements under this bill are nothing new. They are the same as the arrangements which applied to the FTB before the budget. The $600 supplementary FTB payment will continue to be adjusted by the CPI. After the FTB $600 per child supplement was introduced through the Family Assistance Legislation Amendment (More Help for Families—Increased Payments) Act 2004, Labor pointed out that the effect of other changes made in that legislation was that the supplementary payment would be fully recovered, or clawed back, by the government over a very short period of time. The clawback happened because changes in the budget legislation changed the formula for calculating fortnightly FTBA payments and thus compromised the existing safety net benchmarks.

Under sections 6 and 7 of schedule 1 of the budget legislation, while 16.6 per cent, or 21.6 per cent of the annualised combined partnered pension rate was still calculated, the result of that calculation was reduced by the FTB supplement. These new formulas resulted in lower benchmarks. While the lower benchmarks would still increase in line with movements in male total average weekly earnings, they would take longer to rise to match the CPI-indexed FTBA rate. Therefore in future, as the benchmarks caught up with FTB payments, the fortnightly FTBA payments would start to increase at a lower rate than would have been the case prior to the changes in the formula made in the government’s budget legislation. This meant that the value of the government’s $600 payment to families would be eroded over as little as five to seven years. This was because the value of the forgone increase in FTBA payments would have been greater than the value of the supplementary payment to families.

My colleague in the other place, Wayne Swan, the former shadow minister for family and community services, made that case very strongly. He continued to make that case on behalf of Australian families. He continued in spite of the minister’s denials and counter-attacks. The minister sought to slur him rather than deal with the argument. As this bill proves beyond any doubt, Mr Swan was right in the case he made. So I thank him for his work, and I know he is glad to see the passage of this bill. Of course it was not just Wayne Swan and Labor who were trying to get this fixed. The Australian Council of Social Service noted in a press release on 21 June last year:

... the new indexation rules will see Family Tax Benefit rise more slowly than it would have under
current rules. The value of the $600 increase will be washed away.

The minister’s response for some time was to deny the problem existed and to accuse Labor of scaremongering. Finally, in August last year, two months after Labor had identified the problem, the minister quietly admitted that amendments were needed to ensure that families would not lose out as a result of her blunder. It has taken the minister a further six months to get the bill into parliament. Denials, delays, bluster and accusations are all we have had from Minister Patterson until today. At least today we get the bill. This is a great embarrassment for the minister, and so it should be. After two months of denials and counteraccusations and six months of dithering, the minister has finally produced the amendment she promised to Australian families.

There are several implications of the sad story that goes with this bill. Firstly, the original provisions in the budget legislation were flawed. We know they were flawed because this bill seeks to correct them. That means one of two things: either the minister messed up the legislation or the whole thing was another mean and tricky ploy by the government to try to pull a switfie on Australian families. If it is the former, if it is simply a case of ministerial incompetence, then that is sad but, I suppose, not that surprising. If it is the latter, if it was yet another trick from this mean and tricky government, then that is far worse.

The second implication is that for two months last year, after Wayne Swan drew attention to the problem, the minister denied that it existed. Now that we have the bill to correct the problem here in front of us it is clear who was right. Therefore, the question we have to ask is: for two months last year was the minister unable to recognise that the problem existed or was the department unable to accept the argument and unable to see the flaw in what they had done or was the minister not being candid with Australian families? That is an important question and one I intend to get to the bottom of. Either it was a case of incompetence—somebody made a mistake, somebody could not understand the argument; it is quite a complex argument—or the minister deliberately sought to mislead Australian families about the effect of the changes made in the budget.

If the former is true, if the minister, with all the resources of the Department of Family and Community Services at her disposal, could not see the fault in her own legislation, then I am very concerned about the department. But I am not sure that the fault lies there. If it does, I want to know why the department was unable to recognise that this was a problem. If it was the latter explanation, if the minister knew about the problem but just would not admit it, if she knew about it and continued to deny it in public, then that is a much more serious issue. That means that the Australian public were deliberately misled. Today is a major embarrassment for the minister, and we are yet to find out whether she deliberately misled Australian families or whether it was just a giant mistake inside the department. We will find out. We will get to the bottom of it because we want to be clear as to whether it was incompetence or a misleading of the Australian public.

Obviously, the Prime Minister has made his own judgments about the minister’s performance, with her responsibilities being distributed to Mr Hockey, Mr Andrews and Mr Dutton. Her responsibilities are being slowly whittled away. That is a reflection of Prime Minister Howard’s judgment on her ministerial competence. Nevertheless, there is an important issue about whether the Australian people were deliberately misled, and it is one I will pursue.
I will conclude. I know Senator Greig wants to make a contribution. Labor does support the bill. It is a bill that we would not need if the job had been done properly in the first place. It is the bill that proves that Wayne Swan and Labor were right all along. We are at least grateful that finally that pressure has resulted in the government fixing up the bill and giving to Australian families what they were promised.

Senator GREIG (Western Australia) (1.41 p.m.) — I thank Senator Evans for his courtesy. The Family Assistance Legislation Amendment (Adjustment of Certain FTB Child Rates) Bill 2004 addresses concerns that the Family Assistance Legislation Amendment (More Help For Families—Increased Payments) Act 2004, which came into force last year, would over time diminish the value of the additional $600 lump sum component of family tax benefit part A. Benchmarks are set in place to secure the value of payments for families when compared to movements in wages. Male total average weekly earnings—MTAWE—have been increasing at a rate much higher than CPI. Economic forecasters indicate that they will continue to do so for some years to come and therefore it is proper that the real value of payments for families is sustained by linking them to MTAWE. That any disadvantage would not likely occur until 2006 does not explain the need to exempt this bill from the cut-off order. However, we Democrats accept the need for this bill and support it. It is worth the peace of mind to families that the value of the one-off payment of $600 will be sustained.

Peace of mind is not a term that comes readily to mind with the family tax benefit. Indeed the complexities of the FTB system offer anything but, and cause thousands of Australian families much grief and angst. It is indeed incongruous that parents of young children are obliged to navigate the complexities of a system which, being designed to help them bring up children, should not be so complex. I have often spoken in this place about the difficulties of families being required to estimate their income. Providing an estimate which must be accurate to the exact dollar is very difficult, even for those people on fixed incomes who must predict future wage increases. It is certainly impossible if you are one of the hundreds of thousands of Australians who work casually, change jobs over the year, move in and out of work or who are self-employed.

Let me, for example, explain to the Senate what the general estimate process is for each Australian family that wants to claim their entitlement to cover the cost of children. First, you have to multiply the amount you receive before tax—that is, the gross amount—by 26 or 52 depending on whether you are paid weekly or fortnightly. Second, you have to take into account any pay rises or other changes in your regular earnings since 1 July. Third, you have to add any bonuses, lump sum payments, gifts or extra money you or your partner have received since 1 July or expect to receive during the year. Fourth, you have to add the value of fringe benefits or any salary packages for the financial year and you may need to seek assistance in calculating this from the Family Assistance Office. Fifth, you have to add any foreign income. Sixth, you have to add any income from rental property—that is, net income. Seventh, you have to add any pension or benefit paid since 1 July. Eighth, you have to subtract any tax deductions that may be allowed, such as a work related expense. Finally, once you have added those together you must then subtract your own and/or your partner’s child support or maintenance payments that you or your partner have made for the year.

There is no margin for error allowed in that calculation, and it is not just once a year:
families are encouraged to do these calculations monthly. How they find the time to do this with their busy lives is of concern. It goes without saying that families, even if they rigorously apply the previous nine steps, will inevitably be unable to estimate their income accurately. Many future changes simply cannot be accurately predicted. These families then incur an overpayment, and the family tax benefit will not have been put away for a rainy day so that their repayment is readily available—it will have been used to pay the day-to-day and very real expenses of raising children.

The impact of the estimate system, without any leeway, is that Australian families are being put under an unnecessary financial strain each and every year. The government cannot claim that the reducing number of debts from previous years is due to better operation of the system or of amendments to it. Indeed the reality is that hundreds of thousands of Australian families have resorted to overestimating their income to avoid incurring the huge family tax benefit debt at the end of the year. That means often that their children go without. It simply is not possible for parents to wait until the end of the financial year to buy clothing, food or shoes or to pay education expenses for children.

The government’s amendments of last year did not fix the problem. The $600 one-off payment at the end of the year simply hid the real number of people who had incurred debts because they were unable to estimate their income properly. The bill before us does not fix overpayments and will not ease the worry of families struggling with estimates. We Democrats have a basic support tenet for social security and assistance and believe that it should be targeted at those most in need. Family tax benefit B for some recipients is a glaring example of an exception to that rule. For wealthy families where one partner chooses to stay at home or has the luxury of doing so, or where the millionaire status of the family finances means one parent need never even contemplate work, that family will qualify for family tax benefit B. At the same time as impoverished students are faced with having to buy their way into university and those with disabilities are facing the loss of the disability support pension because of this government’s policies, a group of wealthy Australians who do not need financial assistance to raise their children are receiving it because this government thinks it is okay to do that. That policy is increasingly dividing Australia.

We wholeheartedly support the family tax benefit where it is paid to single parents or parents who genuinely need financial help to meet the high costs of raising young Australians, but paying family tax benefit to wealthy stay-at-home parents is one of the most unfair, ideological and poorly targeted policies that this government has yet concocted. It is a pity the government did not use this bill to better target family tax benefit part B. However, we Democrats support this particular bill, because it is in keeping with our policy that families should not be disadvantaged, but we look forward to the opportunity to better address the improper targeting of family assistance so that it better meets the needs of all Australians and not a select group.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.48 p.m.)—The amendments made by the Family Assistance Legislation Amendment (Adjustment of Certain FTB Child Rates) Bill 2004 deliver on the government’s commitment to maintain the value of family tax benefits in real terms into the future. The legislation is being passed after the 2004-05 budget and intentionally delays the year in which the pre-July safety net benchmark provisions would have come into effect. The policy in-
tent of that legislation was to provide a $600 supplement, the value of which would be maintained in real terms. There was no intention to delay the possible introduction of the benchmark in the indexation arrangements associated with the new supplement.

Under this bill, changes are made to the adjustment provisions in the family assistance law that apply to the under-13 and aged 13 to 15 child rates. The changes ensure that these child rates are indexed by the greater of the CPI or the relevant percentage of the combined pensioner couple rate, known as the safety net benchmark. The effect is that fortnightly family tax payment benefit rates will be adjusted at the same time and for the same amount as would have occurred under the introduction of the FTB part A supplement. There will be no delay in the benefits of high growth and real wages being passed on to families in the form of higher levels of payment.

In addition, the substantial $600 per child FTB part A supplement will continue to be indexed each year in line with the increases in the CPI as is currently provided for in family assistance law. This will maintain the value of the supplement. Through these amendments the government is putting beyond any doubt that it is committed to ensuring the real value of the substantially increased family benefit assistance is maintained. Senator Evans made some comments with respect to Senator Patterson’s commitment to this. He need look no further than Senator Patterson’s press statement of 6 June 2004, in which she said:

We will take whatever action—including legislative—to show that the Howard Government is committed to delivering the new payment and ensuring its value is protected over time.

I think that responds quite effectively to the comments Senator Evans made today. Australian families know that the Howard government will ensure all eligible customers continue to benefit from the $600 per child supplement each and every year. 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.

Sitting suspended from 1.52 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Ms Cornelia Rau

Senator VANSTONE (2.00 p.m.)—My question is to Senator Vanstone, the Minister for Immigration and Multicultural and Indigenous Affairs. I refer the minister to her previous statements concerning searches of Centrelink and Births, Deaths and Marriages databases in relation to the detainee then known as Ms Brotmeyer or Ms Schmidt and to her confirmation provided earlier today that Ms Rau was detained and kept in detention under sections 189 and 196 of the Migration Act. Does the minister recall her assertion that these identity checks were being carried out because of doubts immigration officers had about her claims of identity or of being an unlawful noncitizen? Minister, isn’t it the case that those sections of the Migration Act did not permit the continued detention of Ms Rau once there was any doubt as to her status as an unlawful noncitizen? Minister, isn’t it a fact that you did not have the power to detain Ms Rau under those sections? Isn’t it the case that Ms Rau’s continued detention subsequent to doubts being raised as to her status was unlawful?

Senator VANSTONE—Senator Ludwig, I understand the gist of what you are wanting to get to here. It is my view that you can have a reasonable belief, as required under the act, but a reasonable belief is not a cer-
—therein lies the difference between the two. If someone wished to challenge the proposition that immigration officers, while having a reasonable belief that someone was an unlawful noncitizen, should not, while holding that belief, check out other alternatives, they could argue that case; I would not accept it.

Senator LUDWIG—Mr President, I ask a supplementary question. Is it not the case that the minister can only continue detention under section 196 if the person is definitively established to be an unlawful noncitizen? Is the minister aware of the findings of the Federal Court of Australia in the case of Goldie against the Commonwealth of Australia, which found that detention under section 189 was not to be used, as the minister thinks, for the purpose of curial review or determination of status? Don’t the minister’s actions and statements prove that Cornelia Rau should have been released well before 10 months had in fact expired?

Senator VANSTONE—Senator Ludwig, in a sense you are asking for a legal opinion, and you know that I am not entitled to give that. There will no doubt be some people who will want to query the conduct of immigration officers, health officials and everybody associated with this matter. Nonetheless, as I indicated to you, Immigration had a reasonable belief that that—an unlawful noncitizen—is what she was. I do not believe that that excludes not so much the opportunity but the responsibility to take other courses of action. A consequence of the proposition that you put in this particular case would be that, if you had the reasonable belief that she was an unlawful noncitizen, you would not do any other checks, and I notice the thrust of some other questions is, ‘What checks did you do?’ with the implication being that whatever was done was not satisfactory. I do think you can have both sides of that coin. (Time expired)

Workplace Relations: Industrial Action

Senator KNOWLES (2.04 p.m.)—My question is to the Special Minister of State, Senator Abetz, representing the Minister for Employment and Workplace Relations. Would the minister inform the Senate of the current levels of industrial disputes in the Australian economy? What action is the government taking to reduce the levels of industrial disputes? Is the minister aware of any alternative policies?

Senator ABETZ—I thank Senator Knowles for her question and note her ongoing interest in the Australian economy. Due to the Howard government’s industrial relations reforms, more Australians than ever are now employed, earning higher wages than ever. Significantly, the level of industrial disputation in Australia has now fallen to the lowest level since records were first kept—some 90 years ago. Unfortunately, as Senator Knowles would know, there is one state in Australia where the state Labor government have refused to stand up to the unions. This refusal is not out of some weakness, because they actively go about aiding the trade unions in that state—a state which is now Australia’s IR basket case. Unfortunately for Senator Knowles, I speak of Western Australia.

Perth is now the strike capital of Australia. Since 2001 the rate of working days lost to industrial disputes has trebled in Western Australia. In June 2001 it was 32 days lost per 1,000 employees. By June 2004 it was 121 days lost per 1,000 employees. The problem is even worse in the construction industry. In 2003 in Western Australia the number of days lost was 567 days per 1,000 employees—more than double the national average for the construction industry. Yet the Western Australian state Labor government and the federal Labor Party under Mr Beazley, a product of Western Australian
Labor, continue to resist our essential reforms to industrial relations in this country—reforms that will mean more jobs, higher wages and, of course, fewer strikes.

Why is Labor so appallingly bad? For starters, the CFMEU is the most powerful union in Western Australia, with a controlling interest in the affairs of the state ALP and the state Labor government. In fact, only last month the secretary of the WA CFMEU backed Mr Beazley to become opposition leader. Since 2001, the CFMEU has loaded bucket loads of money into the state ALP.

Western Australians will soon have a choice to escape the tangled web of the unions and the state Labor government and get a government which acts in the interests of the workers rather than in the interests of itself and its union bosses. The Senate, too, will soon be asked to make a choice about our industrial relations reforms. If this really is a new Labor Party under Mr Beazley, a Labor Party that is serious about the economy, I am sure that it will join us in supporting our industrial relations reforms, reforms that will ensure that the unfair dismissal laws will in fact be changed, thus creating the opportunity for another 75,000 new jobs in our economy; that is, it would take 75,000 Australians off unemployment benefits.

Senator Conroy interjecting—

Senator ABETZ—As soon as you start talking job creation, what do you get but those sorts of interjections from the Deputy Leader of the Opposition in the Senate? They have no view for the future; they have no vision. They only do that which their union masters tell them to do. If the Labor Party are a new party under Mr Beazley, let them show it to the Australian people by supporting our reforms in the Senate in the months to come. (Time expired)

Ms Cornelia Rau

Senator MOORE (2.09 p.m.)—My question is to Senator Vanstone, Minister for Immigration and Multicultural and Indigenous Affairs. I refer the minister to the period Cornelia Rau spent in detention at Brisbane Women’s Correctional Prison. Is it not the case that there was not a single visit to Ms Rau by DIMIA between 30 April 2004 and 30 September 2004 either to confirm her identity or to progress her case? Can the minister explain why Cornelia Rau was left alone in a cell for five months without a visit from the Department of Immigration and Multicultural and Indigenous Affairs?

Senator VANSTONE—I thank the senator for the question. I do not have the information in front of me that I provided to Senator Ludwig this morning which gives details of some interviews that were conducted. As I recall, it indicated that further inquiries were being made. My office explained to Senator Ludwig that one of the delays in giving him an answer stems from the fact that you may have a situation where people go specifically to conduct interviews in relation to identity and may visit on other occasions for another purpose—for example to get photographs or for some other purpose—and at the same time have a discussion. On that basis, there may be further information to come.

Nonetheless, in any event the basis on which Immigration were operating was that she was a German national and we were working with the German consul to see if we could identify where she came from and who she really was, given that she was using two aliases. We were seeking to identify her on the basis that she identified herself as German—which is perfectly credible, as it turns out that she is. One of the most obvious places to go and get assistance in terms of identification was the German consul. It is...
not my view that confirmation of who she was in terms of being able to get a passport or citizenship documents or any of that sort of material was possible in any other way given that that was not material in the possession of Ms Rau. It may be that the best chance of getting anything like that was going through German officials.

Senator MOORE—Mr President, I ask a supplementary question. I refer the minister to the previous answers and also to the new revelations that Immigration left Ms Rau alone in detention for five months. I also refer the minister to comments made by Jeff Kennett and the weight of growing public opinion calling for a full public judicial inquiry. Will the minister now commit to a full public judicial inquiry?

Senator VANSTONE—I will repeat the answer I gave in an interview earlier today in relation to this matter. I asked that people who have an interest in this—and most Australians have varying degrees of interest and various reasons for being interested—put themselves in the position of a mother of someone with a pre-existing mental condition reading all of the sorts of allegations that are being made in relation to your daughter’s conduct and the consequences of that conduct. Think about the indication it would give to you of the situation your daughter may have been in if the allegations were true. That would be sufficient anguish, you would think, for anybody to handle if they knew that privately.

To then know that it is being bandied around the papers and that a variety of people around Australia are discussing it with varying degrees of respect—from that which you would hope would be in normal homes and parliamentary offices to maybe that at the front bar of the pub—would add to the anguish. If you subsequently found out that you need not have had that anguish because your daughter was not in that condition, that would be a travesty of incredible proportions. It would be more than an invasion of privacy; it would be far worse than that.

I will also mention a reason which I did not mention this morning and that is the obvious desire of some advocates to use Ms Rau’s case to basically put their own propositions in relation to mandatory detention policies. That would be a misuse of any inquiry. A third reason is that I understand there are significant concerns around Australia about the provision of mental health services in Australia. It may be appropriate for each of the states or the states collectively to have such an inquiry but Ms Rau’s case is not the vehicle for that. (Time expired)

Environment: Water Management

Senator CHAPMAN (2.14 p.m.)—I direct my question to the Minister for the Environment and Heritage. Will the minister inform the Senate what funds are available for the states under the National Water Initiative? Is the minister aware of any plans by the states or territories to gain access to the Australian Water Fund?

Senator IAN CAMPBELL—I thank Senator Chapman from the great state of South Australia, which of course, as Senator Lees said yesterday, has suffered from poor water management in the past. Of course, in my home state of Western Australia we have a lot of water challenges—and opportunities, I might say. The government has established a historic agreement with the states through what is called the National Water Initiative. I do not think it is well understood by the people of Australia just how important that agreement is but it was signed by almost all states and territories in the middle of last year because of the leadership of John Howard. It seeks to bring in sensible pricing arrangements for water to ensure that water is not wasted and to ensure that there is a sen-
sible balance between irrigation users, industrial users and, very importantly, domestic users. It is designed to ensure that we get exceptional environmental outcomes.

I referred yesterday to clause 25 of the agreement that said that we would identify important high-conservation rivers between the Commonwealth and the states and put in plans to protect them. The National Water Initiative is vital. It was built on during the election with an announcement by the Prime Minister to add $2 billion of investment to the sorts of projects we need to put in place to restore Australia’s river systems and to drought-proof Australia to ensure that we have reliable water.

The condition of getting access to that water fund is that we sign up to the National Water Initiative—for a good reason. We do not want the states to be taking Commonwealth taxpayers’ money—taking money out of the back pockets of taxpayers—and wasting it on projects that do not deliver good results because water reform has not been put in place. It is an absolute prerequisite made clear by the Prime Minister: if you want money from the Water Fund you have to sign up to the National Water Initiative.

It is alarming for a Western Australian to see Dr Gallop, who was almost alone among the premiers, saying, ‘I’m not going to sign up to the National Water Initiative; we’ll go it alone; there’s nothing in it for Western Australia,’ and grandstanding on that day for a cheap headline and a bit of politicking. He did say that it did nothing for the people of the west and instead left taxpayers exposed to high water prices. That was Dr Gallop on 27 June. Here we are only a few months later, with Dr Gallop, who is in the middle of an election campaign, creating what can only be described as a fraud on the people of Western Australia because he is now writing out cheques that he knows are not backed up by money in the bank—signing cheques that are not backed up by money in the bank. He said on 3 February that he will fund a water project in the south-west—that is, a project he had already knocked back last year; the Harvey water project—and that he would be seeking $28 million from the federal government from the Australian Water Fund. This premier knows that you cannot get money out of that fund unless you have signed up to the NWI. He has refused to sign up, so he has created a fraud on the people of Western Australia.

The other thing he knows is that if you want money out of the Australian government to build these major projects—any project over $5 million—you need to sign up to the industrial relations code of construction. Will Dr Gallop do a triple backflip with pike and sign up to the MWI so he can balance his budget? Will he sign up to the construction code so that he can build these very important projects for the people of Western Australia, for our environment, for conservation and for our wetlands and to ensure that the people of Perth have a reliable water supply for the next generation?

Ms Cornelia Rau

Senator LUDWIG (2.19 p.m.)—My question is to Senator Vanstone, the Minister for Immigration and Multicultural and Indigenous Affairs. I refer the minister to answers she has given this week in relation to Cornelia Rau and DIMIA’s conduct of missing person searches. I refer the minister to a press statement issued under her name on 21 July 1999 in which she said:

CrimTrac is an information system that will give police speedy access to operational information such as Domestic Violence Orders, criminal records and missing persons information.

Minister, given that you knew this to be the case, why didn’t you order a search of inter-
state missing persons databases through CrimTrac?

Senator VANSTONE—I thank Senator Ludwig for the question. It will be no surprise to you that I do not recall all the detail of a press statement I made on 21 July 1999. I do not have a bad memory. Even in my most confident moments I would not purport to have that memory. I do, however, remember the setting up of CrimTrac. The Commonwealth put in $50 million to link the police databases, which I regard as a tremendous achievement, and it was achieved despite the interference—or, just in hindsight, perhaps the gratuitousness—of some of the state police officers who did not believe it could be done.

CrimTrac was set up to do the sorts of things that you mention, and progressively to do them. For example, it took some time to get the fingerprint and palm print databases up and then there was a question about getting the legislation through to get the DNA bits and progressively everything worked. But as a consequence of the intention at the time to do just as you indicate, when this matter first came to my attention I had the view that there was such a facility. I was surprised, therefore, on making inquiries to have some information provided by the Federal Police which clearly indicated that up until that point the missing persons aspect had not been dealt with. That is not a surprise; this was progressively to be done in adding things on. Senator Ellison may have a view on or something to say about whether police ministers have had a different view from that time and changed it. It is not entirely run by the Commonwealth, as you know; the CrimTrac board is run by a number of people. In any event, the indication from the Federal Police in relation to missing persons is that each state still maintains its individual database. That could still be true if you did have it linked nationally. But the indication was that there is not an individual national database that accesses all those systems and that—

Senator Conroy interjecting—

Senator VANSTONE—Senator, if you do not mind, I am answering a question from one of your colleagues. If each of the states wanted to seek the assistance of the two officers who assisted in the coordination, who I think are now in the Crime Commission, they could have done. The advice I had was that nobody had done that. I assume, therefore, that New South Wales did not seek that assistance.

Senator LUDWIG—Mr President, I ask a supplementary question. The minister might want to check with Minister Ellison, but from her work originally as justice minister she might know that CrimTrac is now operational in that capacity. It does in the annual report indicate that there is the ability to include missing persons. It is not cross-referenced at this point, but there is the ability to search it for missing persons. They can, as I understand it, search every state. That seems not to have been done. Minister, in that instance, would an interstate search not have found Ms Rau once she was listed as missing? Minister, if that is the case, how could a minister with your previous knowledge and expertise in missing persons fail Cornelia Rau so badly?

Senator VANSTONE—Senator, the first part of your question is a very good one. The second part indicates that you have not the slightest idea about what the minister for immigration does, and that is that he or she does not micromanage each file from the day that it comes in. They do have the responsibility to answer for what has happened on a file once it becomes public knowledge, but they do not on a day-to-day basis manage individual files. In relation to your question, if I have been incorrect in what I have said
and you can search missing persons through CrimTrac—which is slightly inconsistent with the advice that I got from the AFP—then, when Immigration made the appropriate inquiry with the Queensland police, whence she came, I think it is reasonable to say that the Queensland police, who do missing persons aspects, would have done that. But may I point out that if they had done that at the time she would not have been listed, because she was not listed as missing until August. *(Time expired)*

**Western Australia: Infrastructure**

**Senator GREIG** *(2.24 p.m.)*—My question is to the Minister for Finance and Administration, Senator Minchin, representing the Treasurer. I ask the minister if he is aware of the Western Australian Kimberley to Perth 3,700-kilometre pipeline feasibility study that has been proposed by Premier Gallop and also of the canal proposal for the same distance, without a feasibility study, that has been put forward by the state opposition leader. I ask if he is also aware of the estimated conservative costs of these projects, which vary between $2 billion and $11 billion, depending on how they are approached. Has the government been formally contacted by either of the WA parliamentary leaders for Commonwealth funds to facilitate these projects if they are to go ahead? Does the minister agree that a comprehensive feasibility study that ensures full costings, environmental aspects and native title issues have been fully addressed would be critical for any potential funds to come forward from the Commonwealth?

**Senator MINCHIN**—Yes, I am aware of discussions in the context of the Western Australian election of various proposals to deal with what is a crisis in the domestic water supply for the city of Perth. It is a serious situation. As a South Australian dependent on the Murray, I am conscious of the water issues of remote cities like Adelaide and Perth. I commend opposition leader Barnett on raising this issue. *(Time expired)*

**Opposition senators interjecting—**

**Senator MINCHIN**—Mr Barnett should be commended for drawing attention to the very significant issues which Western Australia faces with regard to its water problems. We welcome his contribution. I think the people of Western Australia, equally, are very interested in proposals coming from Mr Barnett and the Liberals to deal with a very, very serious issue.

**Opposition senators interjecting—**

**The PRESIDENT**—Senators on my left, please come to order so that we can hear the minister’s answer.

**Senator MINCHIN**—Mr Barnett does take these issues much more seriously than the Gallop Labor government, which has refused to sign on to the very important National Water Initiative—which a Barnett government would sign on to. So we commend Mr Barnett for his much more serious and realistic approach to dealing with the problems of water in Perth.

**Opposition senators interjecting—**

**The PRESIDENT**—Order! Senator Sherry and Senator Conroy, you are continuously interjecting and shouting across the chamber. I ask you to come to order.

**Senator MINCHIN**—As to the pipeline itself and how a Western Australian Liberal government would build that pipeline, that is a matter for the Western Australian Liberal government, which I hope will be elected after the next state election. I am not aware of any specific approaches. I do recall seeing in Mr Barnett’s statement that there would be an approach to the Commonwealth for some funding—a contribution to the proposed pipeline. We have made it clear through statements by the Prime Minister and the
Treasurer that, as a result of our commendable establishment of the Australian Water Fund, which is a $2 billion project to ensure that realistic, sensible proposals around Australia for water resourcing can be supported by the Commonwealth, any approach by a Barnett government for funding under that water fund would be seriously considered and examined according to the proper processes of the Commonwealth.

Opposition senators interjecting—

The PRESIDENT—When you have all finished shouting across the chamber, on my left, I will call Senator Greig.

Senator Robert Ray—If we could get off the Western Australian election we wouldn’t be shouting.

The PRESIDENT—Order! Senator Greig.

Senator GREIG—Mr President, I ask a supplementary question. To correct the minister, the Liberal opposition is proposing not a pipeline but a canal, and there is a fundamental difference. I note the comments of Treasurer Costello in Perth last week when he said that the Commonwealth would not consider any funding for such proposals unless a feasibility study showed that they were viable.

Honourable senators interjecting—

The PRESIDENT—Order! Senators in the chamber are making too much noise. I am having trouble hearing the supplementary question and I do not think the minister can either. Senator Greig, please continue.

Senator GREIG—Does the comment from the Treasurer suggest that if they were viable—either a canal or a pipeline—the Commonwealth would come forward with funding? If so, does the Commonwealth have a method in place for determining what percentage of the finance its contribution would be?

Senator MINCHIN—It is not our business to get into the question of the feasibility of the project itself. That is a matter for the Western Australian government, quite properly. But to the extent that a Western Australian government—hopefully a Liberal government—would seek a contribution from the Commonwealth under our very commendable, as I said, national water fund, then we would be quite happy for the National Water Commission to consider such a request according to the criteria that we have established for consideration of applications for funds out of our water fund to support projects around the country. So, yes, any request for Commonwealth funds will be dealt with according to Commonwealth processes and proper criteria established to assess the question of whether or not there should be a contribution from the Commonwealth to such a project. The question of the feasibility of the project per se is a matter for the Western Australian government.

Regional Services: Program Funding

Senator O’BRIEN (2.30 p.m.)—My question is to Senator Ellison, the Minister for Justice and Customs. Is the minister aware of evidence to the Senate regional funding inquiry corroborating the substance of Mr Tony Windsor’s allegations concerning inducements related to his candidacy for the seat of New England? Is he aware of Mr Stephen Hall’s evidence to the committee that the Australian Federal Police investigation into the Windsor affair did not address a deliberate and ongoing attempt to mislead the investigating authorities during the election campaign which was intended to shield the Deputy Prime Minister from scrutiny? Given that the AFP inquiry has now concluded, can the minister confirm that neither the Deputy Prime Minister nor Senator Sandy Macdonald were interviewed by the Australian Federal Police in relation to the Windsor affair?
Senator ELLISON—I am not going to comment on what some individual might or might not think about an investigation by the Australian Federal Police. The Australian Federal Police investigated this matter and they cleared the Deputy Prime Minister and Senator Sandy Macdonald, and that is on the record. It is not the role of the minister for justice to go behind an investigation by the Australian Federal Police. I accept that the Australian Federal Police are a thoroughly professional organisation and highly regarded. Just like any other investigation that it undertakes, it undertook this one in a professional manner, and I have no reason to believe otherwise. They cleared the Deputy Prime Minister and Senator Macdonald, and that is the end of the investigation as I understand it.

Senator O’BRIEN—Mr President, I ask a supplementary question. Was the minister made aware of the evidence which revealed that Mr Hall in particular was interviewed only about conversations which took place in May 2004 and not during the election campaign, but which were relevant to the allegations of the involvement of the Deputy Prime Minister? Given the new information and corroboration of existing statements, which have become publicly available in recent weeks, including sworn testimony before a committee of this parliament, should the entire matter be referred back to the Federal Police for further investigation? If the minister refuses to do this, can he explain the basis for his refusal?

Senator ELLISON—I understand that the Senate committee inquiry is continuing. You can correct me if I am wrong in that regard. I think it would not be appropriate to pre-empt any outcome of that inquiry. Let us have the inquiry conclude before we draw any conclusions and before we have any knee-jerk reaction, which the opposition are accustomed to do. There is a proper inquiry which they supported. Let us see it conclude and let us see what recommendations it makes.

Environment: Kyoto Protocol

Senator HARRIS (2.33 p.m.)—My question is to Senator Hill, the Minister representing the Minister for Trade. Minister, is the Howard government aware that as of 16 February—that is, in six days time—under the Kyoto protocol, nations that have not ratified to reduce their global CO₂ may have their export industries placed under embargo and that penalties can be imposed by ratified nations or undeveloped nations?

Senator HILL—Representing the Minister for Trade, I am not aware of any plan of developed nations or undeveloped nations to place penalties or embargoes on Australia or the United States. I have conferred with Senator Ian Campbell, the Minister for the Environment and Heritage, who was at the last conference of the parties, and he tells me he is unaware of this proposal. I will ask the Minister for Trade if he can help Senator Harris any further with regard to the matter. Senator Harris knows that, under the convention, countries accept common but differentiated obligations. Whilst Australia has not ratified the convention it has nevertheless accepted a commitment to achieve its Kyoto target within the prescribed timetable, so therefore it is not gaining any trade benefit through not ratifying. In order to achieve that goal, it is actually costing Australia a considerable sum of money.

I remind the honourable senator of some of the initiatives that have been announced in our efforts to move our energy sector to a lower emission future, including the $500 million low-emissions technology fund, the $100 million Renewable Energy Development Initiative, the $75 million solar cities trial, the $20 million advanced energy storage technologies fund, and the $14 million
wind forecasting program. This government is committed to more efficient use of Australia’s energy resources. It is committed to playing its part in achieving a better global greenhouse outcome, acknowledging that it is going to take considerable time to do it. We will therefore be playing our part. As I said, I am not anticipating any detrimental consequence of a trade nature arising from our decision.

Senator HARRIS—Mr President, I ask a supplementary question. Minister, is the Howard government aware that, under the Australian Constitution and the Kyoto protocol, the Labor state governments can ratify the convention on a state-by-state basis? As the USA is the only other major developed nation that has not ratified, does the minister have confidence that the USA will be able to take all our exports?

Senator HILL—The convention is an agreement between state parties, and the state party in this instance is Australia. It is a nation-state. If the Australian states can contribute to a better greenhouse outcome through using energy more efficiently, I would like to see that as well. In relation to the United States and whether I have confidence that they will take all our exports: no, they are not going to take all our exports. We are committed to building on the strong trade relationship we have with the United States, but that is another debate.

Family Services: Family Payments

Senator CROSSIN (2.38 p.m.)—My question is to Senator Patterson, the Minister for Family and Community Services. Can the minister confirm that during the election campaign the government promised to pay Australian families a 30 per cent child-care rebate from 1 July 2005? Is the minister aware that, on 27 September last year, when asked by Neil Mitchell on radio 3AW if the rebate was capped, the Treasurer said, ‘No, it is a 30 per cent rebate’? Is it not true that this rebate is in fact capped and, because of this cap, any family that pays more than $57 a day for full-time long day care will not get the level of financial assistance promised at the election? Is it not also true that, because of the delay, working families will continue to incur child-care fees of up to $90 per day and not be able to claim one cent back from the promised rebate until at least July 2006? Could you explain, Minister, why the government broke its promise to pay an uncapped 30 per cent child-care rebate starting from 1 July 2005?

The PRESIDENT—That was a very, very long question, I am afraid. You are well over time, but I did allow it.

Senator PATTERSON—With all due respect, Mr President, it is a tax measure and the question is more appropriately directed to the Treasurer. But, having said that, it gives me the opportunity to talk about the record levels of assistance that the government is giving to families through the family tax benefit and the child-care benefit. Families now receive on average $2,000 a year in child-care benefit and now, with the $1 billion that is going into the child-care tax rebate, will have further assistance. We have increased the number of child-care places by 83 per cent—a record 83 per cent—and we are assisting families with the cost of child care even further with that $1 billion going to the child-care tax rebate.

We backdated the introduction of the child-care rebate to 1 July 2004, enabling families to claim an extra six months of out-of-pocket costs. Yesterday I announced the bringing forward of family tax benefit B by six months. It is going to cost the taxpayer over $200 million. Because we have run a sound economy, we are able to give families the benefit of another $200 million by bringing that forward. By bringing forward the
child-care rebate, we are giving another six months extra assistance than was committed to cover out-of-pocket child-care expenses. The child-care rebate will cover 30 per cent of out-of-pocket child-care expenses—that is, fees paid for approved child care less child-care benefit—for taxpayers who receive the child-care benefit and meet the child-care benefit work, study and training test.

If you want to talk about child care, we will talk about Labor’s policy, where people with children aged nought to two were going to miss out and where you would not get a free day that they were promising if the child-care centre exceeded a certain amount. It was a ramshackle policy.

The $4,000 cap will ensure that families in most need will benefit from the rebate. It is expected that very few families will actually hit the cap. The rebate is non-refundable; however, to ensure families obtain the maximum benefit possible, taxpayers with insufficient tax liability to absorb the whole rebate have the option of transferring any unused amount to their spouse. The child-care tax rebate will provide additional child-care assistance to around 640,000 families, with a total cost of an additional $1 billion over four years. The child-care rebate builds on the child-care benefit system, which is paid on the basis of a family’s income, the number of children in care and the type of care. Families using approved child-care services and on the lowest incomes receive the highest rate of child-care benefit.

Senator CROSSIN—Mr President, I ask a supplementary question. Can the minister confirm that, by deferring the payment of the 30 per cent child-care rebate until the 2006-07 financial year, instead of backdating the start date for claims by six months, $162 million worth of cash savings will be delivered to the 2005-06 budget? Won’t the decision to cap the rebate at $4,000 also deliver savings to the budget? Is it not the case that the government broke its promise to deliver an uncapped 30 per cent child-care rebate to be paid from 1 July this year in order to pay some of the costs of its pre-election spending spree?

Senator PATTERSON—No, that is not the issue. The issue is that we have back-dated the introduction of the child-care benefit to 1 July 2004. That gives families assistance to claim an extra six months of out-of-pocket expenses. We have also enabled families to have family tax benefit B six months ahead. Labor never met its promises. We have made a commitment to families and we have brought the family tax benefit forward by six months and we have brought the child-care tax rebate forward by six months. We also wanted to ensure that families receiving the child-care benefit were treated in a similar way to families who were receiving assistance in child care through the child-care tax rebate.

Indian Ocean Tsunami

Senator TCHEN (2.44 p.m.)—My question is to the Minister for Justice and Customs, Senator Ellison. Will the minister update the Senate on the work being done by Australian police and other Australian government agencies in tsunami affected parts of Thailand?

Senator ELLISON—The other day I outlined the fantastic response from the Australian Federal Police, Australian police across the country and, of course, forensic experts in responding to the need in Thailand for disaster victim identification. It is now a matter of record that the Minister for Foreign Affairs, accompanied by the Australian Federal Police Commissioner, Mick Keelty, travelled to the region a matter of days after the disaster. But I think that what we should realise is the ongoing work that is being
done, still in difficult conditions. Of course, the task itself is a very difficult one.

What we have to date is around about 105 personnel who have been working in disaster victim identification. We have had 48 Australian Federal Police: nine from New South Wales, five from Victoria, five from South Australia, five from Western Australia, two from Queensland, one from the Northern Territory and one from Tasmania. This total number also includes around 29 specialists, including orthodontists, pathologists, mortuary technicians, linguists and CrimTrac personnel, who travelled up there to establish a database at the request of Interpol. Domestically, the Australian Federal Police have provided family liaison officers—those officers who did such a great job in the Bali disaster dealing with families, keeping them abreast of developments, discussing the DVI process with them and providing a central point of contact for those families who have loved ones who are missing. That has been of great consolation to them.

To date, there have been 176 identifications carried out by our personnel, and 1,735 ante-mortem documents and over 1,900 post-mortem documents have been dealt with. That gives you an idea of the enormity of the task that is being undertaken and will continue for some months. We are dealing with a situation where you have a variety of nationals having to be identified in very difficult circumstances. We have to make certain that that identification is correct and we also want the process to be as speedy as possible.

Interpol has requested our assistance and, as I say, CrimTrac has set up an automated fingerprint identification system and it has personnel on the scene. In fact, the head of CrimTrac travelled to the region to assess the work that was being done by that agency, and I can say that it has done an outstanding job. It did so during the post-Bali bombing period in disaster victim identification, and its expertise has been readily used by those working on the ground. In fact, up to 30 countries are involved, with more than 400 people represented in the task force dealing with disaster victim identification.

This is an ongoing commitment. It is an important part of dealing with a disaster of this magnitude. It provides certainty, and of course we still have people who are unaccounted for and there are still many more deceased who have to be identified. We certainly appreciate the great work the agency are doing. We will be rotating those working up there because of the demanding nature of the task. For those who have been up there, I wish to record the government’s appreciation, and for those who are going up there we wish them the best in their very difficult task.

**Family Services: Family Payments**

*Senator McLucas* (2.49 p.m.)—My question is to Senator Patterson, the Minister for Family and Community Services. I refer the minister to her press release yesterday, where she said:

… families receiving FTB part B will be eligible for a cash bonus of up to $150 from 1 July 2005 after they lodge their tax return. Every year thereafter families will be eligible for the $300 annual increase after they lodge their tax returns.

Can the minister confirm that, as a result of this announcement, Australian families who receive FTB part B will now only receive $150 during the course of the 2005-06 financial year and not the $300 that they were promised during the election campaign? Doesn’t the minister’s statement mean that families will not actually receive the promised $300 until after 1 July 2006, when they lodge their tax returns for the 2005-06 financial year? How can the minister claim that families are getting more when the government will actually be spending less during
the 2005-06 financial year than it promised before the election?

Senator PATTERSON—Payments to families—family tax benefit A and family tax benefit B—are based on a financial year. We made a commitment in the election that families would receive an increase in family tax benefit B of $300. This is over and above the $600 per child one-off bonus that families received in June last year. It is over and above the $600 per child increase in family tax benefit A that families received when they put their tax returns in for the last financial year. We made a commitment that in the next financial year families would receive a $300 increase in family tax benefit B.

This is a benefit that Labor was going to eliminate. It is a benefit that enabled families to have a choice to allow the secondary income earner—the person who would otherwise earn a secondary income—to stay at home. It is choice for families. Labor was going to take away family tax benefit B and take away that choice from families. It is money that assists them in making that choice. We made a commitment to pay $300 for the tax year 2005-06. We have kept that promise. What we have done is brought forward the payment for this financial year. They were never going to get a payment this financial year. They will now get—

Senator McLUCAS shakes her head. Well, she is wrong. They will get $150—or up to $150, because some of them will become eligible for family tax benefit B part way through the six months—for this financial year when they put their tax return in. They will get the promised $300 increase in family tax benefit B—or whatever they are entitled to, because some of them will become eligible for family tax benefit during the next financial year—for a full financial year as promised, as committed to in the election. We have delivered on our promise, and we have delivered more than that because we have increased the payment by $150 this year. They will receive it in their return for this financial year.

Senator McLUCAS—Mr President, I ask a supplementary question. Can the minister confirm that the decision to defer the $300 increase in the maximum rate of FTB part B until the 2006-07 financial year and to instead make a $150 lump sum payment after 1 July 2005 will deliver cash savings worth $187 million to the 2005-06 budget? Isn’t it the case that the real reason why the government has broken this promise and deceived Australian families is to prop up its budget bottom line for 2005-06?

Senator PATTERSON—the answer to that is no. We have increased family tax benefit B and have decided to give it in a lump sum because of the overwhelming response of families to the $600 lump sum payment. Families have said to me over and over again that they have valued that payment, especially if they have a couple of children, because they can buy whitegoods outright—

Senator Chris Evans—Or a greyhound.

The PRESIDENT—Order, Senator Evans! Stop shouting across the chamber.

Senator PATTERSON—He interjects the whole time I am on my feet. Bring back Senator Faulkner. At least he didn’t interject on me. Come back, Senator Faulkner. It was much nicer to see you grimacing at me than to have him interjecting. We have given families an increase of $300. We are giving it to them in a lump sum because the response was overwhelming from families. They voted with their feet for this government on the assistance—the record assistance—we have been giving families. We have brought forward by six months the assistance we are giving families for family tax benefit B.
Medicare: Fraud

Senator HARRADINE (2.54 p.m.)—My question is to Senator Patterson, the Minister representing the Minister for Human Services. I refer to an article in the *Sydney Morning Herald* today titled ‘Abortion clinic owner on trial over fee fraud’ that reports that an abortion clinic in Sydney defrauded Medicare by charging women an up-front fee of anything from $120 to $1,100 whilst also bulk-billing. An abortion clinic worker at the trial testified that at least three other clinics also charged upfront cash fees. Minister, how many other abortion clinics are under investigation for defrauding Medicare? What is the government going to do to protect women from these unscrupulous operators?

Senator PATTERSON—I assume that Senator Harradine would understand that I will not talk about that individual case, because it is before the courts. I will say, though, that the HIC is assiduous in pursuing medical practitioners who break the law with regard to Medicare. I presume the HIC identified this case. I have not got any information about any other clinics that are referred to here, but if people have information about clinics I know Mr Abbott and Mr Hockey would welcome that information being given to them or to the HIC because they will be investigated. The article does not refer to or name the clinics. I presume the HIC will have noted that and will be endeavouring to find out if the alleged clinics exist. If so, they will be pursued vigorously.

The coalition government has been very active in ensuring the integrity of not only the Medicare system but also the Pharmaceutical Benefits Scheme and our social security system through improved compliance. I know the HIC works very hard on this issue and will continue to do so. From what I have read in the press I believe it was the HIC that pursued this issue in the first place. Senator Harradine, if you have any more information, I am sure the HIC would appreciate having it.

Senator HARRADINE—Mr President, I ask a supplementary question. Minister, I note from the story in the *Sydney Morning Herald* that the clinic employed an untrained counsellor who also worked as a receptionist. Abortion clinics are part of a private industry and have a vested interest in women having abortions so that they can get a fee. What is the government doing to ensure that women receive proper counselling from trained people and information on practical alternatives to abortion, independent of the abortion clinic, so that their decision involves their fully informed consent?

Senator PATTERSON—Again, I am not going to comment on the individual case but there is legislation in the various states to deal with people if they purport to be what they are not, particularly if they purport to be psychologists and they are not. If a clinic were using a person who was not qualified and claiming Medicare, I am sure the HIC would pursue that as well. With regard to assistance to women—and I made this comment in the debate earlier, particularly in November last year—we need to make sure that young people have appropriate education and people facing unwanted pregnancies have appropriate counselling. We do fund the states through the public health care outcome agreements to run programs to give advice and assistance to people who are facing unwanted pregnancies. The states administer those. In the last agreement that was to the tune of $70 million. I do not have any other information on that. (Time expired)

Defence: Contracts

Senator MARK BISHOP (2.59 p.m.)—My question is to the Minister for Defence, Senator Hill. I refer to the minister’s press statement of 16 October 2004, when he an-
nounced that tenders will be sought for the $6 billion air warfare destroyer project ‘on an alliance-style contract basis, with the vessels to be built in Australia’ and that ‘the successful shipbuilder will be majority Australian-owned’. Can the minister explain how the inclusion of the American company Northrop Grumman satisfies his October 2004 announcement and the project requirements that the successful tenderer will be Australian owned? Will the minister reaffirm the intention to maintain a viable naval shipbuilding repair and maintenance capability in Australia by having his three AW destroyers built in Australia, thereby ensuring the future health of Australian defence companies and the skilling of Australia’s work force?

Senator HILL—It certainly is our wish to maintain a viable naval shipbuilding business in Australia, not only in the building of the original platforms but also to enable the platforms to be sustained and further developed over the period of their life. We have a number of major shipbuilding projects that will help us achieve that goal. The honourable senator referred to one, which is the largest of them, and that is the decision of the government to call for tenders in relation to three air warfare destroyers. We have three separate tender processes out for that project at the moment. One is in relation to the selection of a builder, to which the senator referred. There is a second one for the integration of systems other than the American Aegis system. And there is a third tender process in relation to a designer.

I am obviously at arm’s length from the consideration of the bids and therefore I do not know the basis upon which any particular bidder is seeking to comply with the obligations that are set out in the request for tender. I would be surprised if the honourable senator believed I should be other than at arm’s length. Whether they qualify will obviously be something that will be determined by those who are assessing the bids.

Senator MARK BISHOP—Mr President, I ask a supplementary question. Can the minister advise whether it is the case that the provisions of the Australia-United States Free Trade Agreement have caused the government to include an American company in the tender process? Have other alliance issues influenced the decision to include the American bid?

Senator HILL—It is not a question of a decision to include an American bid. A request for tenders was published and certain parties have responded to that. Is it related to the US free trade agreement? No, that particular project is not affected by the free trade agreement. Is the alliance important to us in terms of procurement? It is important that the new capabilities that we buy enable us to work in coalition with allies in the future. I would be surprised if the senator thought that any other position would be sensible. Mr President, I ask that further questions be put on notice.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Ms Cornelia Rau

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs) (3.04 p.m.)—I have some answers to table in relation to questions from Senators Ludwig, Kirk, Brown and Evans on the Cornelia Rau case. I seek leave to incorporate them in Hansard.

Leave granted.

The answers read as follows—

Senator Ludwig

Question—When did DIMIA first interview Ms Rau, how many subsequent times was she interviewed whilst in detention, what were the results...
of those interviews and were they conducted with proper translation services provided?

**Answer**

- DIMIA first interviewed Ms Rau on 1 April 2004 in Cairns. She was interviewed again in Cairns and after her arrival at the Brisbane Women’s Correctional Centre on 5 April 2004, she was again interviewed. Initial interviews focussed on her claimed identity, her movements in Australia and people she may have come in contact with. She was also visited while in the Cairns watch-house by the German Honorary Consulate.

- DIMIA officers have indicated that they visited her a number of times at the Brisbane Women Correctional Centre to interview her and progress her case including the completion of a German passport application in anticipation of it being required by the German authorities. Records are being accessed and reviewed to determine further details. While there, she was again visited by a representative of the German consulate.

- Ms Rau was first seen by DIMIA staff in Baxter on 7 October 2004 and interviewed by DIMIA central office staff progressing her case on 20 October 2004. There were numerous other discussions by DIMIA staff with Ms Rau at Baxter which sought to progress her identification, as well as ensure her daily needs were met.

- Ms Rau spoke both German and accented English. She was interviewed in Cairns, Brisbane and Baxter in English. At initial contact in Brisbane and Baxter, offers for the use of an interpreter were declined by Ms Rau. An offer was not made in Cairns as her spoken English and her understanding of English were adequate.

**Question**—What action did DIMIA take to confirm her identity, either on the date DIMIA authorised her detention or subsequently?

**Answer**

- The department went to significant lengths to try and identify Ms Rau including:
  - Information (photo and bio-data) was passed to the Queensland missing persons unit on 29 April 2004. The response received indicated that there was no match;
  - Interviews with the German Consulate occurred on several occasions, with the earliest being on 2 April 2004;
  - The Australian Embassy in Berlin was requested to investigate her identity in July 2004;
  - Records were checked with Centrelink and the Health Insurance Commission in Queensland, the Registrar of Births, Deaths and Marriages in all States, and the Driver and Vehicle Registration authorities in Queensland;
  - Departmental databases were examined, including obtaining movement reports for Germany, Poland, the Czech Republic and Russia.

It is important to note that these efforts made were based on false names and date of birth as provided by Ms Rau. The Department was not aware of her real name until 3 February 2005.

Further details on actions taken to identify Ms Rau will be a matter for the inquiry.

**Senator Ludwig**

Question—Mr President, I ask a supplementary question. Can the minister take on notice and provide answers to the parts of the question that I asked first. In addition, I particularly ask:

Can the minister’s answer go to what authority was given to detain Ms Rau and when and by whom it was given—was it by DIMIA?

Was that authority given when she was at Coen or Cairns?

When she was transferred Cairns to the Brisbane Women’s Correctional Centre, was there a protocol in place for that and under what authority was that done? Where, and by whom, was she detained in Cairns and under what authority was she detained there—was it by DIMIA?

As to when DIMIA did issue instructions, is there a protocol in place with the Queensland police or other police services for this to happen? If there is, is it in writing and, if it is, can it be made available?
Answer

• Authority to detain Ms Rau was in accordance with Section’s 189 and 196 of the Migration Act (1958), which states that if an officer knows or reasonably suspects that a person in the Migration Zone is an unlawful non citizen, the officer must detain the person.

• Section 5 (1) of the Migration Act (1958) provides a definition of "Officer", which includes members of the Australian Federal Police or of the police force of a State or an internal territory.

• Police spoke to Ms Rau following concerns raised by members of the community. The information they received raised concerns as to her immigration status. After discussion with DIMIA compliance staff in Cairns, they requested that Police detain her consistent with obligations under the Migration Act.

• Ms Rau was held in the Cairns Watchhouse under the care of Police authorities, until being transferred by the Queensland Police Airwing to Brisbane on 5 April 2004. DIMIA’s request for the transfer followed interviews with her in Cairns, after which reasonable suspicion remained that she was an unlawful non-citizen. Transfer from a watchhouse to a correctional facility is standard practice for any person held on behalf of DIMIA, where there immigration detention is likely to be longer than a few days.

• The practices followed by Queensland Police for Ms Rau’s holding and transfer are not subject to a written protocol but were based on long standing and well established practices between DIMIA and State police authorities.

CORRECTION

In response to a question asked by Senator Ludwig, I advised that the memorandum of understanding or protocol between DIMIA and the police in Queensland had been under discussion for sometime. However, the memorandum of understanding I had in my mind yesterday is actually with the Department of Corrections in Queensland for the holding of detainees on behalf of DIMIA. Regardless, the practices followed by both Queensland Police and Queensland Corrections for Ms Rau were based on long standing and well established practices.

Senator Kirk

Question—Did DIMIA officials fingerprint and take photographs of Cornelia Rau in an attempt to establish her identity? If so, on what date was Ms Rau first fingerprinted and photographed by DIMIA officials? Can the minister tell the Senate on what dates DIMIA first conducted checks against missing persons registers in Queensland, New South Wales, any other states or indeed internationally? Can the minister confirm whether DIMIA contacted other state police agencies in relation to identifying Ms Rau and, if so, when? Can the minister confirm that DIMIA conducted checks against all missing persons registers?

Answer

• I am advised that photographs of Ms Rau were taken by DIMIA in Cairns and Brisbane. Some of these photographs were forwarded to Queensland Police missing persons unit, sent overseas to facilitate identification and were available for possible use on travel documents.

• DIMIA did not fingerprint Ms Rau in Queensland. We do not have information relating to fingerprints in Queensland facilities. I do not yet have advice relating to fingerprints at Baxter IDF.

• DIMIA first contacted Queensland Missing Persons Unit on 29 April 2004 with a photograph and relevant bio-data. How that information was used and what checks were undertaken against police records is a matter for Queensland Police and will presumably be covered by the inquiry.

• I am advised that some missing persons websites were checked by DIMIA staff but I am yet to receive the details of what they did and sites checked.

Senator Brown

Question—I ask Senator Vanstone: what is the first date of any reference whatsoever—direct, by name or otherwise—to you of the case of Corne-
lia Rau? Secondly, in reference to the disempowered inquiry that has been announced today, as against calls for a judicial inquiry, and in light of the fact that this ill woman was held for 10 months under the care of your department and therefore of you, I ask why the minister has repeatedly insisted today that, rather than finding out why she failed and the department failed this woman, this inquiry is to find out what the government could have done better?

Answer

• My office became aware of the detention management issues in relation to Ms Rau in early January 2005. My office met with the Department on a range of issues on 19 January 2005 and this case was discussed at that meeting.

• The purpose of the inquiry is to focus on the issues relating to the detention of Ms Rau, and interaction between Commonwealth/State agencies, particularly police and mental health providers. This is an inquiry designed to look into the individual and specific circumstances of Ms Rau’s case. It is not an inquiry into Immigration Detention policy.

• The inquiry will be independent. There are sound reasons for not pursuing a judicial or public inquiry, including a genuine desire to protect the privacy of Ms Rau and to receive an informed but an expeditious report on exactly what lead to Ms Rau’s circumstances.

CORRECTION

I referred in my answer to Senator Brown to a letter from Ms Brotmeyer. In fact, this was a letter addressed to me, from Ms Rau under her assumed name of Anna Schmidt, dated 24 October 2004 and expressing a desire to become an Australian citizen. As citizenship would not be possible without first acquiring resident status, the departmental correspondence unit took this to be a request for a permanent residence visa under the Minister’s section 417 powers. A routine acknowledgement was sent in response.

Senator Evans

Question—Could you clarify for the Senate when your office became aware of Ms Rau’s case and the concerns about her health, be it under her proper name or the name she was using?

Answer

• My office became aware of the detention management issues in relation to Ms Rau in early January 2005. My office met with the Department on a range of issues on 19 January 2005 and this case was discussed at that meeting.

• A letter addressed to me was received from Ms Rau under her assumed name of Anna Schmidt, dated 24 October 2004 and expressing a desire to become an Australian citizen. As citizenship would not be possible without first acquiring resident status, the departmental correspondence unit took this to be a request for a permanent residence visa under the Minister’s section 417 powers. A routine acknowledgement was sent in response.

Senator Evans

Question—Will the minister guarantee that the asylum seekers in Baxter detention centre who blew the whistle on the treatment of Ms Rau and who are primarily responsible for her being free today will, if they wish, be able to give evidence to the inquiry that has been established?

Answer

• Whether detainees are interviewed is a matter for Mr Palmer to determine. If he wishes to interview detainees he will have access.

Ms Cornelia Rau

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs) (3.04 p.m.)—by leave—Senator Allinson asked me yesterday about the videos, which was a follow-up on other questions. I indicated that I had already asked for an instruction to be given on which videos were available to be protected. I do have some advice and I will give her some further ad-
vice in writing, but I said I would let her know as soon as I could.

The basic answer is that that was attended to. Two types of video material would be available. There are general videos running—there are I think 60 or more cameras there—that cover both the management unit and the general yards at Baxter. They have a 21-day cycle and the process was put in train to start saving 21 days back from then. The contractor who installed the system—I think it is Honeywell—is engaged in assisting us in that. I am advised it is not a case of saying, ‘Save the lot.’ You have to isolate the particular material in the computer that you are referring to. That may be on a camera-by-camera basis. In addition to that, there is selected material, which is probably properly referred to as ‘incident material’. That is saved for a long time so that if there is some cause for concern that needs to be videoed, that is kept and there will not be any problem in relation to that matter.

The last point I want to make is that, if I have not indicated it here, I certainly indicated to the media that Ms Rau spent one period in the management unit, when in fact it was two—one period of four days and one period of just over a week. The reason I am advised verbally at this point that she spent the longer period there is that at some point it was advised that she should be shifted from that. She was uncomfortable with the move and so the situation was that she was left there until she was happy to move back to the compound. But that can no doubt be provided to Mr Palmer.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Ms Cornelia Rau

Senator LUDWIG (Queensland) (3.06 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) to questions without notice asked by Senators Ludwig and Moore today relating to the detention of Ms Cornelia Rau.

It is rapidly becoming clear that all paths in this Cornelia Rau matter lead back to Senator Vanstone and her office. Cornelia Rau was detained by police on orders by the Department of Immigration and Multicultural and Indigenous Affairs and was detained for an incredible, in my view, 10 months. The minister and others in this chamber—I think Senator Brandis and others yesterday—have made statements to the effect that, ‘Oh well, she was detained for 10 months, but the detention for that time was lawful.’ It seems that, under the legislation, the basis of a lawful detention is that you have to form a reasonable belief. I asked the minister specifically under what power Cornelia Rau was detained. The answer was given to me only this morning, and I thank the minister for that. It said:

Authority to detain Ms Rau was in accordance with Sections 189 and 196 of the Migration Act (1958), which states that if an officer knows or reasonably suspects that a person in the Migration Zone is an unlawful non-citizen, the officer must detain the person.

The key phrase in the act is ‘reasonably suspects that a person ... is an unlawful non-citizen’. It does not continue. It is a phrase that you have to consider at all times. It is not a tap that turns off—detention can continue. At the point where Ms Rau was picked up by the immigration officials and put in detention, there may have been scope—and that is a matter for them to argue—for the detention and for them to have reasonably suspected that she was an unlawful noncitizen. So there was scope—although I do not agree with it—for them to form that view at that point. Whether they had to detain her is something that flows from them forming that reasonable belief or, in the words of the section, ‘rea-
sonably suspects’, but there is no room in section 189 for suspicions or maybes.

Let me emphasise that the act clearly says that there must be reasonable suspicion that a person is—not might be or could be—an unlawful noncitizen. So we should presume for the moment that at the point at which Ms Rau was originally detained she was detained lawfully under that section. That is a matter for the officials to prove at some point. But note this: the moment the suspicion is downgraded from ‘is’ an unlawful noncitizen to ‘might be’ an unlawful noncitizen, the power to detain vanishes.

My view at this point is confirmed in two ways. Firstly, under section 196 of the act, ‘Duration of detention’, continued detention is only allowed if it is established that someone is in fact an unlawful noncitizen. As I have said, there is no room for suspicions, maybes or reasonable beliefs under section 196. There is no room under the act for the continued detention for 10 months of Cornelia Rau, a person whose status of unlawful noncitizen had not been established. If they decided that it was only a maybe, they could have determined not to continue the detention, because there was no room for detention once they had come to a conclusion that there was a maybe, because you have to maintain the reasonable belief. However, that does not mean they could not have kept trying to determine what her status was. They could still run searches, check visas and such things. In this instance, after they had searched their visa and immigration databases and come up zero, because she was not on them and did not have an expired visa, the question is: what did they decide to do next?

The judgment in the case of the Goldie v Commonwealth is instructive. It points us in some interesting directions. It said:

Given that deprivation of liberty is at stake, such material will include that which is discoverable by efforts of search and inquiry that are reasonable in the circumstances.

In other words, you have to go back and say, ‘What did they do?’ In this instance they started looking elsewhere. They started looking at driver’s licences, births, deaths and marriages certificates and everything else. Once you start looking in Australian records you have not, in my view, continued to believe the claim that she is an unlawful noncitizen. You have doubt as to whether she is an unlawful noncitizen, because she could ostensibly be an Australian citizen or of some other status. Once you have gone beyond that, the detention should cease immediately. Those issues are clear, and you must come to that conclusion, but this did not occur.

The fact is, considering all of the searches that they were trying, she could have been released at that point. They could have continued to look for her identity. However, in this instance it seems that Senator Vanstone was incompetent. It seems to me that she had not actually turned her mind to how these matters should be progressed. I imagine not many people in long-term immigration detention cannot be identified. How is that? It seems to have been a ministerial oversight by the department. (Time expired)

Senator HUMPHRIES (Australian Capital Territory) (3.13 p.m.)—I have listened with interest to what Senator Ludwig has had to say about the question of whether Ms Cornelia Rau’s detention was lawful and whether the Commonwealth had the power to retain her in that detention facility. I will make a couple of comments on the points that Senator Ludwig has put to the Senate.

First of all, the obvious point to make here is that it is all very well for Senator Ludwig to rise in this place and attempt to analyse the evidence available to him about the circumstances of Ms Rau’s detention and her treatment, but I have to say, as I have said in pre-
vious debates in relation to this matter, that it is not particularly helpful for the Senate to try and rake over this evidence and determine for itself what exactly has occurred here. Senators are not best equipped to make those assessments. We are not in a good position to examine, for example, witnesses who might come forward in the course of the Palmer inquiry. We are merely speculating. We might do this in a very loyal way and sound impressive in terms of our analysis of the information, but we do not have the full set of information in front of us.

It really does behove the Senate to let the process that has begun be completed. Because of the nature of the concerns that people like Senator Ludwig have raised in this debate, the inquiry conducted by Mr Mick Palmer is to be conducted expeditiously. It is a six-week or so exercise in analysing the information and bringing forward some prompt answers to the questions that many in the community are obviously asking about these circumstances. People would like to know soon what happened in the circumstances of Cornelia Rau and, rather than make a feast of it in this place, I think we need to leave it to that process.

The second point I would make about this is that it is perfectly true, Senator Ludwig, that there is a question here about whether there was certainty about the identity and the status of this woman who was being held in a detention facility. I remind Senator Ludwig that unfortunately it is often the case that people who are in detention in this country in those circumstances will take quite deliberate and manipulative steps to obscure the reality of both their identity and their status because, regrettably, sometimes those people will profit from that fact. It appears that was not the case with Cornelia Rau. I would certainly accept, at least on the evidence available to me with my limited knowledge, that quite probably Ms Rau did not say what she said to immigration authorities and the police because she wished to deceive them for the purpose of some kind of immigration rort. But I do not know that and, with respect, Senator, you do not know it either. On the basis of many previous such cases where a person makes assertions about either their status or their identity, I think the authorities who are dealing with Ms Rau are entitled to be suspicious.

The third point I make is that there is a certain irony about the way in which members opposite have brought forward these points. As long as I have been here, I have heard the litany coming forward from those opposite about believing the people who are in detention—believing their stories, believing what they say to us; believing that, when a person says they are from Afghanistan, they really are from Afghanistan and not from Pakistan, or wherever it might be.

Senator Ludwig—I’ve never said that.

Senator HUMPHRIES—You might not have said it, Senator, but others certainly have made that point. We have been told repeatedly that these people deserve to be believed when they give us their stories. Now we have a person who we did believe, who we did take on face value—up to a point—and we are now being told, ‘No, no, you shouldn’t have believed this person; you shouldn’t have accepted the version of events that she was placing in front of you. You should have made further inquiries.’

Those inquiries have been made. In fact, the information was examined and led to her case being reconsidered. It led, indeed, to the point where we are at today, where an inquiry is being conducted by former police commissioner Mick Palmer. There is no evidence available on what has been put forward that the minister was incompetent, as has been asserted by Senator Ludwig and others—no evidence whatsoever. Whether
people in the hierarchy of DIMIA, the Queensland Police Service or elsewhere were incompetent is a matter that is going to be examined by Mr Palmer. I am prepared to wait until those findings come forward before I make my assessment. (Time expired)

Senator KIRK (South Australia) (3.18 p.m.)—I also rise this afternoon to take note of answers given by Senator Vanstone, Minister for Immigration and Multicultural and Indigenous Affairs, in response to opposition questions in question time today in relation to the Cornelia Rau matter. As the minister confirmed in the Senate this afternoon, the government does not intend to broaden the powers of the Palmer inquiry that was announced earlier this week—that is, broaden the powers of the inquiry such that it would be made fully public and be given judicial powers. The refusal by the minister to agree to broaden the scope and the powers of the Palmer inquiry comes in the face of more and more people in the community, including mental health professionals, calling for the inquiry to be made public and be given full judicial powers so that it can, amongst other things, compel the attendance of witnesses, require them to give evidence to it and also protect those who give evidence.

Today former Premier of Victoria—and a Liberal Party Premier, I might add—Jeff Kennett came out publicly and backed Labor’s call for the federal government to hold a full, public judicial inquiry into the Cornelia Rau matter. As Mr Kennett has acknowledged, it is only through a full public judicial inquiry into this matter that the truth and the facts surrounding this very sad case will be able to emerge fully. As I have said, this is something that Labor has been calling for at least since the beginning of the week, and now Labor has been joined by a former Premier of Victoria, a Liberal Premier, who also agrees that this is the only way we are going to get to the bottom of the matter.

In his comments, Mr Kennett raised a point that I think is worth mentioning. There is no question that Mr Palmer is an eminent Australian and very knowledgeable in the area in which he worked. But, as Mr Kennett mentioned, notwithstanding Mr Palmer’s policing experience, he does not have knowledge or understanding of the health system and so that will make it difficult for him to draw conclusions in relation to that. Mr Kennett suggested—and I think quite helpfully—that Mr Palmer could be joined by another person, perhaps a senior bureaucrat or somebody from the health system, who could assist him in this regard in his inquiry.

As Mr Kennett and many people have said this week, Ms Rau has suffered a continuum of failures by state and federal authorities. What is of concern—and I said this earlier this week in my comments on the matter—is that Ms Rau’s case represents only the tip of the iceberg of what is a very large problem facing mentally ill people generally and, in particular, mentally ill people being held in our detention centres.

Mr Kennett has come out and made comments in relation to this and a number of other senior people in the mental health area have joined him. For example, Keith Wilson, Chairman of the Mental Health Council of Australia, has said that the rules of the Rau inquiry as established by the government only invite buck-passing and cover-ups. In addition, Barbara Hocking, the Executive Director of SANE Australia, has said that the six-week closed inquiry really sends the wrong message—that is, the government wants to do something fairly quickly to get it out of the way. As she says, we have to make sure that there is no papering over the cracks. Again, I can only encourage the government to consider moving to a broad public inquiry into this matter.
Senator EGGLESTON (Western Australia) (3.23 p.m.)—Ms Rau’s story is a sad one. This really is a sad case. It was talked about two days ago in debates on a motion to take note of answers and on a general motion before the Senate. I feel that we need to bear in mind that there is an individual involved in this case who does have a psychiatric problem. This person’s privacy should be respected. The fact that this is a rather sad matter concerning an individual should not be lost in the politics of the issues regarding detention centres, the government’s policies regarding detention centres or general issues to do with the way the community deals with persons with psychiatric problems. We do have to bear in mind specifically the individual concerned in this case.

I suppose that one of the questions we need to ask first of all is why Ms Rau was considered to be a possible illegal immigrant or an overstayer. There were reasons for that. As we know, the background is that this lady absconded from a psychiatric institution in Sydney, a place where she obviously did not want to be. She was holding a stolen Norwegian passport as an identity document. Later she claimed to be a German citizen. As far as we know, she was not exhibiting any real symptoms of mental or psychiatric illness. One can speculate that part of the reason that might have been the case is that, while she was in the psychiatric hospital in Sydney, she was not receiving the kind of standard medication which is given to schizophrenics. That is in the form of a depo injection, which these people have every two to four weeks. In the early days after she left that hospital Ms Rau would have been benefitting from the medication that she had received, so she would not have appeared to have any psychiatric illness. It is not unreasonable that she was not perceived to be a person with a psychiatric illness. It is not unreasonable either that she was perceived to be somebody who might be an illegal immigrant considering that, as I said, she had a stolen Norwegian passport as a document of identity and later claimed to be a German citizen.

On the basis of all of that and after concerns were raised by members of the public, the police were contacted and they interviewed her. As part of the normal course of events, she was then referred to DIMIA for assessment. There is no doubt at all that the department went to considerable lengths to try and identify Ms Rau, including contacting Centrelink, various government agencies and missing persons bureaus. The German consulates were contacted and the Australian Embassy in Berlin was requested to investigate her identity. In fact, she filled out an application for a German passport.

Senator Ludwig has suggested that Minister Vanstone was incompetent because Ms Rau was detained illegally. But, just for the benefit of the record in the Senate, may I say that Ms Rau was treated totally routinely. She was suspected of being an illegal immigrant. The authority to detain Ms Rau was in accordance with sections 189 and 196 of the Migration Act 1958. Section 189 states:

If an officer knows or reasonably suspects that a person in the migration zone ... is an unlawful non-citizen, the officer must detain the person.

That was the legal basis on which Ms Rau was detained. At no time at all was her detention outside the bounds of existing law. I would just make the point that we must remember that dealing with people with mental illnesses is difficult. They do not walk around with labels on them—(Time expired)

Senator DENMAN (Tasmania) (3.28 p.m.)—I rise to take note of the answers provided by Senator Vanstone in relation to the Cornelia Rau situation. There comes a time with regard to many issues which confront us as representatives of the Australian people when we have to draw a line in the sand.
This is one such occasion. It is far too simple to take the line proposed by the government that we should simply confine our responses to the terms of reference given to Mr Palmer. I think that Mr Palmer is a very capable person for this, but I also think that it should go further. There should be medical people involved and probably legal people as well.

There are many issues that arise out of this case, including the personal circumstances which Ms Rau found herself in and the treatment she received. But the issue I would like to concentrate on is the one which former Premier Jeff Kennett has talked about. He is a very good advocate for the needs of Australians with mental health issues. He seems to have an understanding, but he also has a public face on this issue. He is to be commended for taking up the fight for what has always, sadly, been a most unfashionable case.

I have a connection with someone who has a mental health problem, so I do know the difficulties of this situation. I know how very difficult it is for families, particularly families who have no support. I know how difficult it is for not only the families but the police. If someone goes missing and the family notifies the police, it is up to the police to find that person. It is a very difficult situation for the person with the mental health problem, because they do not understand that they have a mental health problem. In Ms Rau’s case, it is a very sensitive issue because of her illness and perhaps her lack of not only understanding but acceptance of the fact that there is an issue. Mr Kennett, who represents volunteers and family members, and the organisations beyondblue and SANE have struggled so hard to get their message across.

I understand that this case also raises again the debate about the detention of refugees and those suspected of or charged with immigration offences—an issue also which deserves the fullest attention of the people’s representatives. By a series of unfortunate circumstances, Ms Rau found herself, on behalf of the federal authorities, first in a detention centre in Brisbane and then in Baxter. She should never have been in either. This is where we probably need a national database—so if people do go missing from mental health institutions and cross borders it is known by authorities in other states. We appear not to have a national database. The situation in Tasmania is a bit different because it is not so easy to disappear from there. In the case that I know of, it took the authorities a week to find the missing person. Having had all the detail, they were still not able to find that person, and they did look. They did their absolute utmost to find that person. It is important that we understand these things.

The unwillingness of us, the elected representatives, and the Australian people as a whole to confront mental illness has gone on for far too long. We must draw the line in the sand. The minister should show leadership by extending the Palmer inquiry so that, as Ms Rau’s family wishes, we look right into this unfortunate case so that we can get to the bottom of what happened and what we should do about it in the future. Ms Rau’s family has shown the way in all this. They are not after a pound of flesh; they simply want to see that it does not happen again. Like so many other families who have had to deal with mental illness suffered by loved ones, they know that dramatic action is often needed. (Time expired)

Senator BARTLETT (Queensland) (3.33 p.m.)—I would also like to speak briefly on the matter that other speakers have been debating this afternoon and, indeed, throughout this week—the case of Cornelia Rau. It has been a tragic case, and we can only hope that its tragic aspects can generate some good
both for her as an individual and for how we deal with people with mental illness in Australia and the many aspects of that. As senators would be aware, the Democrats have put forward a proposal for a Senate inquiry into mental health issues, which we hope is given the support of the Senate. Whilst we believe the Cornelia Rau incident needs to be investigated fully, publicly and openly, we also believe that we should make the most of the opportunity—an opportunity arising from terrible circumstances—to examine the broader issues of the adequacy of mental health treatments and attitudes in Australia, whilst there is a focus on it.

We have had statements from people across the political spectrum, including leaders at state and federal levels, all raising the question of whether we are failing in our treatment of mentally ill people. I do not think that there is any doubt that we are, frankly. We did not need the Cornelia Rau situation to tell us that but, given that it has been the catalyst that has sparked commentary from so many people and that state and federal leaders, Labor and Liberal, have recognised the problem, we should grasp that opportunity whilst it is in the public consciousness and strike while the iron is hot. We should seek to make significant changes and address the major failings that are clearly endemic within Australia in relation to our attitudes towards mental illness in general and towards people who have a mental health problem. That is what I hope can be done.

The need to focus on those broader problems should not be used as an excuse to avoid looking at what may have gone wrong with the Cornelia Rau incident specifically. I draw the attention of the Senate again to the fact that I asked the minister on Tuesday in question time, and Senator Allison asked again yesterday, whether or not the eyewitnesses at the Baxter detention centre who expressed their concerns about the treatment of Cornelia Rau to others will have the opportunity to provide evidence to this inquiry, even if it is in secret—and I think that is grossly inadequate. The minister said that she would take that on notice and get back to us. She has had two days now and, as far as I know, she has not got back to us, although maybe she is about to read something out to us about it.

*Senator Vanstone interjecting—*

*Senator BARTLETT—Okay. I am assuming—and it is an assumption—that the detainees will want to give evidence; they may not. That is their choice. But they should certainly have that opportunity because they are the eyewitnesses. It may or may not be that Ms Rau would have ended up with full psychiatric care in Glenside without the public attention from the initial newspaper article in the *Age*.*

It is almost certain that she would not have been identified without that article being published. That article would not have been published without the concerns being expressed by detainees in Baxter, people who had no reason other than the obvious reason to raise concerns about a young, white, apparently German woman. One could say that they may have an interest in raising concerns about their own treatment. I cannot see what possible reason they would have to raise the concerns they did, other than the obvious reason: that they were genuinely concerned about the wellbeing of this woman and how she was being treated. They are the eyewitnesses. They should have the opportunity.

Senator Ludwig raised an important point which I hope is properly considered by the inquiry. If it is not, it will need to be considered properly elsewhere. That is, have we actually seen the Migration Act properly applied? In all of the debate about the appropriateness or otherwise of mandatory deten-
tion we should not forget just how fundamental a thing freedom is. To take away a person’s freedom by arbitrary or administrative decision you have to be as sure as you can that you are doing it properly, that your suspicion is reasonable and that you test that suspicion continually throughout that person’s detention. To take away someone’s freedom is a very serious thing. It is a thing that has a major impact on people’s mental wellbeing and we need to make sure that it does not happen except in totally lawful ways. *(Time expired)*

**Senator VANSTONE**—I seek leave to move a motion to refer the documents to legislation committees.

Leave granted.

**Senator VANSTONE**—I move:

(a) the documents, together with the final budget outcome 2003-04 and the Issues from the Advance to the Finance Minister as a final charge for the year ended 30 June 2004, be referred to legislation committees for examination and report; and

(b) consideration of the Issues from the Advance to the Finance Minister as a final charge for the year ended 30 June 2004 in committee of the whole be made an order of the day for the day on which legislation committees report on their examination of the additional estimates.

Question agreed to.

**Portfolio Additional Estimates Statements**

**Senator VANSTONE** (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs) *(3.40 p.m.)*—I table the portfolio additional estimates statements for 2004-05 for portfolios and executive departments in accordance with the list circulated in the chamber. Copies are available from the Senate Table Office.

The list read as follows—

Agriculture, Fisheries and Forestry portfolio.

Attorney-General’s portfolio.
Communications, Information Technology and the Arts portfolio.
Defence portfolio.
Education, Science and Training portfolio.
Employment and Workplace Relations portfolio.
Environment and Heritage portfolio.
Family and Community Services portfolio.
Finance and Administration portfolio.
Foreign Affairs and Trade portfolio.
Health and Ageing portfolio.
Human Services.
Immigration and Multicultural and Indigenous Affairs portfolio.
Industry, Tourism and Resources portfolio.
Prime Minister and Cabinet portfolio.
Transport and Regional Services portfolio.
Treasury portfolio.
Veterans’ Affairs.

COMMITTEES
Superannuation Committee
Report: Government Response

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs) (3.41 p.m.)—I present the government’s response to the report of the Select Committee on Superannuation entitled Superannuation and standards of living in retirement: the adequacy of the tax arrangements for superannuation and related policy, and I seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—

GOVERNMENT RESPONSE TO THE RECOMMENDATIONS OF THE SENATE SELECT COMMITTEE ON SUPERANNUATION REPORT ‘SUPERANNUATION AND STANDARDS OF LIVING IN RETIREMENT’

1. The Committee recommends that the Government announce a clear statement of objectives for Australia’s retirement incomes system, including target retirement incomes for representative groups.

The Government restated its objectives for the retirement income system in A more flexible and adaptable retirement income system in February 2004. The Government’s retirement income policy is designed to provide incentives, flexibility and security. Retirement income policy should encourage people to achieve a higher standard of living in retirement than would be possible from the age pension alone, while ensuring that all Australians have security and dignity in retirement. Australia’s ageing population also highlights the need for retirement income policy to be fiscally sustainable in the longer term.

The fully implemented Superannuation Guarantee arrangements, in conjunction with the age pension, will allow Australians to retire with higher living standards than previously. Treasury estimates that the Superannuation Guarantee system in conjunction with the age pension is projected to provide a spending replacement rate for a single male on median earnings (approximately $35,000) of 76 per cent after 30 years of contributions, or 85 per cent after 40 years of contributions. While the Government does not support setting a replacement rate target, it notes that these replacement rates are consistent with the 70 to 80 per cent band mentioned in the Senate Committee report.

The Government believes that individuals are best placed to determine their own retirement income target based on their desired standard of living in retirement. The Government encourages people who have higher retirement income expectations than what the age pension and their Superannuation Guarantee savings will provide to consider what actions they can take to help achieve their expectations. This could include taking advantage of the concessions provided to superannuation by making additional voluntary savings or deferring their retirement.

The Government has instituted a balanced set of initiatives as part of its policy to improve the superannuation system further, to assist individuals
in meeting their target level of income in retirement. Some examples of these initiatives are:

- increasing the limit on the full deductibility of superannuation contributions by self-employed persons from $3,000 to $5,000, while retaining the 75 per cent deductibility of any amount above the $5,000 threshold up to the deduction limits;
- the Government superannuation co-contribution for qualifying low- to middle-income earners; and
- a reduction in the superannuation surcharge rates.

The Government has made further reductions to the surcharge and broadened the co-contribution measure as part of the 2004-05 Budget initiatives:

- The surcharge will be reduced to 10 per cent for the 2005-06 and later financial years.
- The matching rate for the co-contribution has been increased to 150 per cent of an employee’s personal contributions made from 1 July 2004 up to a maximum of $1,500. The thresholds have also been increased so that the maximum co-contribution will be paid on incomes up to $28,000. Above this amount, the maximum co-contribution will reduce by five cents for each dollar of income, to phase out at $58,000, up from $40,000.

The Government has also changed the contribution rules to allow anyone under the age of 65 to make contributions to a superannuation fund. The introduction of complying market-linked income streams will also give retirees more choice in how they finance their retirement.

2. The Committee recommends that, having established the objectives or goals, the Treasury convene a panel of key stakeholders to identify, and where possible recommend, common modelling assumptions and techniques for projecting retirement incomes.

This recommendation is not supported.

The models and modelling used by the Treasury’s Retirement and Income Modelling Unit (RIMU) have benefited from extensive comments by stakeholders during the Senate Inquiry process, the guidance of a high level steering committee, and national and international sources. Convening another panel of stakeholders to discuss RIMU techniques for projecting retirement incomes is unlikely to yield any significant improvements.

3. The Committee recommends that the Government:

a) extend the co-contribution concept by raising the threshold to people on average earnings, and improving the coverage to lower to middle income earners;

The coverage of the co-contribution has been significantly broadened from the original proposal. As part of the 2004-05 Budget, the Government has increased the co-contribution to 150 per cent of an employee’s personal contributions made from 1 July 2004 up to a maximum of $1,500. The thresholds have also been increased so that the maximum co-contribution will be paid on incomes up to $28,000. Above this amount, the maximum co-contribution will reduce by five cents for each dollar of income, to phase out at $58,000, up from $40,000.

b) remove the work test for making voluntary contributions for those under age 75;

The Government has removed the work test for making superannuation contributions for people under age 65. However, people under age 18 will be required to satisfy a work test in the year the contribution is made if they want to claim a deduction.

Additional work rules apply to people aged 65 and over. The work test is consistent with superannuation’s intended role as a retirement income vehicle. However, the Government has simplified the superannuation contribution and payment rules for people aged 65 to 74. People will be able to make contributions to superannuation for a financial year if they have worked at least 40 hours within a 30-day period. Benefits will have to be cashed if the person does not work at least 240 hours during the financial year. This will significantly reduce compliance costs for superannuation funds as they will not have to confirm regularly that a member has worked at least 10 hours each week.

c) permit the contribution of any non superannuation asset to superannuation income stream products, providing that, as far as possible, there are no adverse tax or age pension means test consequences.
This recommendation is not supported.

The removal of the work test for people below age 65 will make it easier for people to purchase a superannuation income stream with the proceeds from the sale of a non-superannuation asset. However, if they are already in receipt of an income stream, they must commute the income stream, make the additional contribution (provided they satisfy the contribution rules), and then commence a new income stream. This is appropriate as the person’s circumstances have changed, which will result in different tax and social security implications for the new income stream.

The exact tax and social security consequences of such a transaction will depend on individual circumstances and the nature of the income stream. The tax consequences may include a change to the annual deductible amount. The social security consequences may involve a change in benefit level, due to the impact of the income or assets test.

4. The Committee recommends:
   a) examining the option of extending to the self-employed a framework for making superannuation contributions, with tax treatment similar to that which applies to employees making contributions;
   
   This recommendation is not supported.
   The Government has implemented its 2001 election commitment to increase the limit on full deductibility of superannuation contributions by self-employed people from $3,000 to $5,000, while retaining 75 per cent deductibility on any amounts above this threshold (subject to the age-based deductibility limits).
   
   Further, many small business owners direct their earnings into building up their business. In recognition of this, the Government has implemented a number of initiatives to allow small business owners meeting the eligibility criteria to reduce significantly, or eliminate, their capital gains tax liability when selling a small business or part of a business. For example, a small business owner can disregard a capital gain where the proceeds of the sale of an asset are used for retirement purposes (up to a lifetime limit of $500,000). These measures will benefit the many self-employed Australians who put all their resources into their businesses as an alternative to making superannuation contributions.

   b) examining the removal of the $450 earnings threshold for Superannuation Guarantee contributions.

   This recommendation is not supported.
   The Government is not convinced that the retirement income benefits of removing the $450 earnings threshold for Superannuation Guarantee contributions outweigh the possible extra costs imposed on business, especially small business.

5. The Committee recommends that, together with industry, the Government conduct a review of the appropriate benchmark for measuring the impact of superannuation tax concessions. This recommendation is not supported. Official tax expenditures are measured against a comprehensive income tax benchmark. The reasons for this include that:
   
   • international best practice (including in OECD countries) is to measure tax expenditures against the tax treatment that would normally apply. In the case of superannuation contributions and earnings, this is income tax;
   
   • where government uses tax incentives deliberately, the comprehensive income tax base provides guidance on structuring measures to achieve the desired outcomes in the most efficient and cost-effective manner possible; and
   
   • historically income tax has been the relevant base.
   
   Accordingly, the Government does not consider that there is a need to review current practice.

6. The majority of the Committee recommends that, in the long term, the superannuation contributions tax be gradually removed and replaced with a new approach to taxing end benefits.

   This recommendation is not supported.
Superannuation is the Government’s largest tax expenditure. The value of the tax concessions provided to superannuation is projected to be $13.3 billion in 2004-05. Published research by Treasury shows that superannuation is concessionaly taxed for taxpayers in all marginal tax brackets. An average person with superannuation will have about 40 per cent more available at retirement, after all taxes, compared with receiving that money as wages and investing outside superannuation.

If the overall level of taxation of superannuation were to remain the same, shifting tax to the benefits stage would make no difference to an individual’s after-tax superannuation benefits. A recent OECD survey of Australia found that although superannuation is taxed at three stages, the end result is close to a system in which only end benefits are taxed. This is consistent with the findings of World Bank research that Australian superannuation taxes over a working lifetime are not high by world standards (Whitehouse, World Bank (1999)).

Moving taxation to the benefits stage to compensate for the removal of the contributions tax would be inconsistent with the thrust of recent Government policies, such as the Senior Australians’ Tax Offset, which have been directed at reducing the tax paid by older Australians. Deferring the taxation of superannuation entirely to the benefits stage would also cause a significant deterioration in the budgetary position over the medium term, with resultant higher Government debt and public debt interest costs. The alternative would be to find significant offsetting savings elsewhere in the budget so as to leave the Government’s overall fiscal position no worse off. This would necessitate examining Government spending priorities in key areas such as national security, health, education, and social welfare.

7. The Committee recommends that, until such time as the taxation regime has moved to back-end taxes, which would ultimately enable Maximum Deductible Contribution limits (MDCs) to be removed, the Government review the scale of the annual MDC limits.

This recommendation is not supported.

The age-based deductibility limits are very generous, with contributions of up to $95,980 (indexed annually) in respect of individuals aged 50 and over being deductible. This is nearly twice Average Weekly Ordinary Time Earnings (AWOTE). There is no limit on the amount of undeductible superannuation contributions that a person can make.

An individual who pays up to the full MDC limit for every year from age 25 to 65 would accumulate superannuation savings that significantly exceed the pension reasonable benefit level of $1,238,440.

8. The majority of the Committee recommends that, as part of a policy to move towards a more equitable system of end-benefit taxation, the surcharge be gradually removed in the long term (given the revenue implications this may be achieved through a staged reduction).

The Government went to the 2001 election with a commitment to reduce the maximum surcharge rates from 15 per cent to 10.5 per cent. Due to difficulties with the passage of the legislation through the Senate, the Government could only obtain agreement to reduce the rates to 12.5 per cent by 2005-06.

Initiatives implemented as part of the 2004-05 Budget, however, have further reduced the surcharge rate to 10 per cent for the 2005-06 and later years. The Government remains committed to reducing the superannuation surcharge rate further.

9. The Committee recommends that:
   a) a surcharge cap of the maximum rate of surcharge be implemented for members of private sector defined benefit funds;

This recommendation is not supported.

The current arrangements are applying the surcharge as intended, with the rules in respect of funded defined benefit schemes enabling consideration to be given to the unique features of individual schemes when determining surchargeable contributions.

Subject to the requirement to act in the best interests of all members, trustees of defined benefit funds have complete discretion in how they allocate the liability within the scheme.

The Government considers it inappropriate to intervene in matters between individual funds,
employers and members. However, the current arrangements provide funds with considerable flexibility as to their operation. From 1 July 2005 many employees will have greater choice as to the superannuation fund into which their superannuation contributions are paid. Choice of fund will allow employees to choose a fund that best meets their individual circumstances.

b) the burden of administering the surcharge be transferred from superannuation funds to the Australian Taxation Office (ATO).

This recommendation is not supported. The ATO already undertakes a significant amount of the surcharge administration. From a fund’s perspective, the administrative requirements for the surcharge are essentially similar to the processes it already undertakes as part of normal business operations—for example, processing and remitting payments, crediting and debiting accounts and reporting to members and regulators. Under existing arrangements, a superannuation fund is required to provide the ATO with member contribution statements. These are generally provided electronically to the ATO, which in turn matches this information with data from individuals’ income tax returns and determines the surcharge due where applicable. The function carried out by the ATO reflects that industry is only required to perform the necessary functions to facilitate the operation of the surcharge regime. The data provided by superannuation funds is also used by the ATO to determine entitlement to the Government’s co-contribution payment.

10. The Committee recommends that:
a) the current Reasonable Benefit Limits (RBLs) be retained, but that the annual indexation applicable to RBL thresholds be limited;
b) the lump sum tax free threshold be gradually reduced to the annual equivalent of average weekly ordinary times earnings (AWOTE) and maintained at that level; and
c) lump sum taxes on amounts in excess of the thresholds be gradually adjusted in line with the tax rate applicable to income streams.

These recommendations are not supported. The Government considers that individuals are ultimately best placed to determine how to invest their superannuation savings so as to maximise their standard of living in retirement. The current rules are structured so as to ensure that individuals who do take relatively small balances as lump sums may not need to pay tax on those benefits. There are also significant tax and social security incentives to encourage retirees to purchase income stream products that provide a regular income over their retirement instead of taking lump sums. An example is the 15 per cent rebate in respect of pensions paid from a taxed source, while the component of a pension which represents a member’s own after tax contributions is not subject to tax.

11. The Committee recommends that the Government consider proposals by which the superannuation system could be used to help meet health care costs in Australia, including dental health costs, which are expected to increase significantly in the next four decades.

This recommendation is not supported. Assignment of superannuation for health and dental health costs is not appropriate. About 40 per cent of people aged 65 and over currently have private health insurance, in most cases including ancillary health cover, which provides significant benefits for dental health care costs. To make private health insurance more affordable for older Australians, the Government has announced that it will increase the Private Health Insurance Rebate from 30 per cent to 35 per cent for people aged from 65 to 69 years and to 40 per cent for people older than 70 years. The nature of health expenditure is such that the risk needs to be shared across a broader group in the community through private health insurance and universal insurance through Medicare. Such risk-sharing is better achieved by policies that encourage a high proportion of the population to have insurance cover than by policies that force everyone to save enough to cover an expense that may only eventuate for some people. The Government’s community rating and lifetime health cover arrangements ensure that premiums are affordable for older people, despite the higher average benefits they receive.
12. The Committee recommends that the Government:

a) continue to strive for universal and adequate superannuation coverage, with a focus on low and middle income earners;

Noted.

The measures introduced by this Government will go a long way in meeting the above recommendation.

Examples of such Government initiatives are:

- the Government superannuation co-contribution which is specifically targeted at low- to middle-income earners;
- increasing the fully deductible amount of superannuation contributions by self-employed people from $3,000 to $5,000 while retaining the 75 per cent deductibility on amounts above this threshold;
- simplifying the superannuation guarantee notional earnings base;
- removing the work nexus so that anyone under the age of 65 can take advantage of superannuation;
- allowing people who are working to make personal superannuation contributions up to age 75. The Government has also simplified these rules; and
- the spouse rebate to encourage partners to make contributions on behalf of non-working or low-income spouses.

The Government co-contribution can have a significant impact on a person’s retirement income even for a modest level of saving.

- A single male with a 35-year working career and a current salary of $36,000 who makes $5 per week in member contributions and receives the co-contribution is projected to have an increase in his real accumulation balance at retirement of around $55,000.
- This represents a 23 per cent improvement on his projected accumulation balance (in both real and nominal cases) where only SG contributions are made. His replacement rate is projected to improve by 6 percentage points (from 80 per cent to 86 per cent).

b) review the current arrangements for access to the Commonwealth Seniors Health Card scheme to ensure that it focuses on those in greatest need;

Noted.

The Commonwealth Seniors Health Card was introduced in 1994. It targeted self-funded retirees of age pension age or service pension age who had income below the pension cut-out point but were not eligible for any pension because of the assets test or on residence grounds. Income limits have subsequently been made more generous, most recently as part of the Government’s Acknowledging Older Australians package, which was directed at giving more credit to self-funded retirees for their important contribution in developing the nation.

c) examine options to encourage older workers to remain in the workforce beyond the superannuation preservation age, particularly on a part-time basis;

The Government is committed to providing enhanced opportunities and greater choice for mature age workers, recognising that their skills, experience and ongoing contribution to the labour force will play a vital part in securing Australia’s future economic strength.

As part of this commitment, the Government has announced that a new Mature Age Worker Tax Offset will be available to workers aged 55 and over. The offset will provide a maximum annual rebate of $500 with effect from the 2004-05 income year. Eligibility for the offset will be based solely on earned income, so that mature age workers with earned income who also derive income from passive sources, such as superannuation and shares, can still benefit from the offset.

The offset will phase in from the first dollar of income, with the full $500 rebate being available to all mature age workers when assessable earned income reaches $10,000. The offset will phase out at 5 per cent from $48,000, so that no offset is available when earned income exceeds $58,000. In 2005-06 and beyond, the phase-out threshold will increase so that mature age workers with earned income up to $63,000 will benefit from some offset.

The Government has already legislated to remove any age discrimination that exists in relation to
the employment of employees of the Australian Government, and remains committed to continued leadership in promoting community understanding of the economic and social imperatives of greater workforce participation by mature age people.

The Government has also moved to make superannuation more flexible and adaptable so it is easier for older Australians to remain in the workforce and moved to recognise their changing work preferences. Allowing people who have reached their preservation age to access their superannuation as a non-commutable income stream, without having to retire from the workforce, will provide people with more flexibility in developing strategies in their transition to retirement. The work test that applies to people aged between 65 and 74 has also been changed so it is consistent with flexible working arrangements such as irregular part-time or short-term contract work, which older workers may prefer.

The Government also introduced the Pension Bonus Scheme which took effect from 1 July 1998. The scheme aims to encourage people to remain in the workforce past age pension age. The scheme is entirely voluntary and provides a tax-free lump sum to people who defer taking the age pension and continue to work at least 960 hours each year for a maximum of five years.

The Senior Australians' Tax Offset and the reduction in the age pension income test taper rate from 50 per cent to 40 per cent also provide an incentive for people above the age pension age to continue working, as they may not have to pay any tax on their earnings, and can keep more of their age pension.

d) monitor the uptake of complying annuities, to ensure that the restrictions imposed do not inhibit the attractiveness of complying annuities;

The Government supports this recommendation.

The Government will continue to monitor the uptake of complying annuities to ensure that these products are attractive to retirees. The Government extended complying status to market-linked income streams from 20 September 2004. This will increase competition within the complying income stream market, as well as providing additional choices to retirees.

e) consider the appropriateness of the current minimum drawdown limits for allocated annuities;

The Government supports this recommendation.

The Government is considering the appropriateness of the factors that are currently used to calculate minimum and maximum drawdown amounts.

f) develop a standard set of rules applying to income streams;

This recommendation is not supported.

The current rules that apply to income streams provide a great deal of flexibility and choice to people considering the investment of their superannuation and allow people to select the income streams that best suit their needs. A standard set of rules would necessitate a standard type of income stream, thereby reducing the options available to individuals in retirement.

The rules applying to complying and allocated income streams differ, as they have different characteristics. For example, a complying income stream receives a concession under the social security assets test, whereas an allocated income stream does not. A complying income stream may also be assessed against a higher reasonable benefit limit (RBL). Complying income streams receive these concessions based on their compliance with specific rules, including that they are non-commutable and that there is an orderly drawdown of capital over the term of the income stream.

g) examine options by which those who wish to could draw an income stream from their owner-occupied housing assets for retirement income purposes, including health and aged care expenses.

Noted.

The Government notes that since the Committee's inquiry, a number of financial institutions have launched reverse mortgage products. These allow retirees to unlock the capital in their home as a means of supplementing their retirement income.

The Pension Loans Scheme is also available to age and service pensioners receiving less than the full rate of pension and some self-funded retirees who own real estate. Under this scheme, a cus-
Customer who is of age or service pension age, or the partner of someone who is, may be able to obtain a loan that will top up their fortnightly age pension payment to the equivalent of the full rate of age pension. Repayments can be made at any time or the debt can be left, including the accrued interest, to be recovered from the customer’s estate.

13. The Committee recommends that more resources be allocated by Government agencies to assist people to prepare for retirement.

Noted.

The Government regularly reviews the resources allocated to Government agencies.

14. The Committee recommends that the Government consider the matters raised in this report in order to identify ways to make the superannuation system less complex and more comprehensible to the Australian people.

Noted.

The Government is committed to improving the financial literacy of Australians so that they are better able to make confident and well-informed decisions on the full range of financial products and services, including superannuation. The Government established a Consumer and Financial Literacy Taskforce in February 2004 to develop a national strategy to improve consumer and financial literacy in Australia.

The Taskforce found that while a diverse range of consumer and financial literacy programmes already exist, many consumers were not aware of the availability of these programmes, and similarly, programme providers were not linked into the needs of consumers in a nationally coordinated way. The Taskforce recommended that a national financial literacy body be established to take a strategic approach to this issue and facilitate improved cooperation, efficiency and effectiveness amongst provider organisations.

The Government has accepted the Taskforce’s recommendation and committed $5 million to establish a National Consumer and Financial Literacy Foundation and a further $16 million over two years for a National Consumer and Financial Literacy Information Programme.

The Foundation will, amongst other things, establish a clearing house to provide a central point of access to consumer and financial information resources.

Many of the ‘grandfathering’ arrangements identified by the Committee as increasing complexity have been put in place to ensure that people are not worse off as a result of legislative changes. Unwinding these arrangements would impact negatively on the retirement plans of these people.

The Government is mindful of the need to reduce complexity in superannuation. As part of its recent superannuation policy initiative in relation to Australia’s demographic challenges, the Government has implemented measures that will reduce complexity and red tape in superannuation. Examples include:

- removing the work test for making superannuation contributions for people under 65;
- simplifying the superannuation contribution and cashing rules for people between the ages of 65 and 74; and
- removing the requirement for superannuation funds to obtain an actuarial certificate for assets supporting allocated pensions and the new complying market-linked pensions.

These changes will not only make it easier for people to contribute to superannuation, but will also reduce regulatory costs on superannuation providers.

Furthermore, full portability of inactive accounts applies from 1 July 2004. This will allow people with multiple accounts to roll them over to one fund, thereby reducing the number of multiple accounts and the amount of lost money within the superannuation system.

15. The Committee recommends that, as a means of increasing national savings and reducing the temptation for people to accumulate debt which is repaid with superannuation on retirement, the Government examine the introduction of a tax preferred medium to long-term savings vehicle which could be accessed prior to retirement for purposes such as:
a) health;
b) savings for a home deposit; and
c) education.

Noted.

The Government already provides a range of tax and other incentives, in addition to superannuation, to support medium- to long-term savings. These include:

- the capital gains tax exemption for the family home;
- a change to the arrangements regarding taxation of other capital gains for individuals, whereby only 50 per cent of nominal gains are taxed (where the assets are held for at least one year). This means that the highest rate of capital gains tax for individuals is effectively no more than 24.25 per cent;
- redesigned company tax arrangements, whereby excess imputation credits are refundable to resident taxable individuals and complying superannuation funds. Where a person does not fully use their imputation credits to offset any tax liability, they are able to receive a refund of imputation credits; and
- abolition of Financial Institutions Duty and stamp duty on listed shares from 1 July 2001.

16. The Committee recommends that the Government consider indexing Commonwealth funded superannuation benefits to Male Total Average Weekly Earnings (MTAWE) or the Consumer Price Index (CPI), whichever is the higher, in order that recipients share in the increases in living standards enjoyed by the wider community.

This recommendation is not supported.

The Government at this time has no plans to change the indexation method for Australian Government civilian superannuation pensions. The Government believes that indexation using the Consumer Price Index (CPI) represents an equitable and satisfactory method over a period of years for increasing pensions, and protects the living standards of retired Australian Government employees.

In a recent article published by the Australian Bureau of Statistics (ABS) entitled *Analytical living cost indexes for selected Australian house-
would increase to 42.4 per cent and 28 per cent of superannuation salaries respectively. The increase in unfunded liability would be around $6 billion and worsen the budget fiscal balance by around $500 million per annum.

The results are estimated using Treasury’s preferred replacement rate definition of average annual retirement expenditure as a percentage of expenditure in the final year of working life. The calculations differ slightly from those presented in Treasury’s submission to the Senate Select Committee, reflecting updated (improved) life expectancy and changes to the year of retirement.

The Senate Committee report preferred replacement rate to be defined as expenditure in the first year of retirement as a percentage of expenditure in the final year of working life. The Government endorses Treasury’s view that this definition is inappropriate, as it can understate the true standard of living achievable over the course of retirement.

Senator WATSON (Tasmania) (3.41 p.m.)—by leave—I move:

That the Senate take note of the document.

A superficial examination of the government’s response may suggest surprise that I as past chair actually commend the government on its significant initiatives for superannuation since 2002. During that intervening time a number of matters recommended by the committee were taken up quite strongly by the government or, if not, the government took other actions that had a similar effect. So in a sense the report was ahead of its time, which is always a good thing for committee reports.

Our report was released in December 2002 and was based on an inquiry that was conducted earlier that year. The recommendation on adequacy modelling, it must be remembered, was in an environment of significant concerns about Treasury’s modelling outcome figures. While the government said that the committee’s recommendation was not supported, I am pleased to say that the models and modelling used by the Treasury’s retirement income modelling unit have benefited from extensive comments by stakeholders during the Senate inquiry process and the guidance of a high-level steering committee and national and international sources, which is certainly good news.

The majority of the committee recommended also that, as part of a policy to move towards a more equitable system of end benefit taxation, the surcharge be gradually removed in the long term. The government’s response, I believe, has been good. Due to difficulties with the passage of the legislation through the Senate, the government could only obtain agreement to reduce the rates to 12.5 per cent by 2005-06. But initiatives implemented as part of the 2004-05 budget have further reduced the surcharge rate to 10 per cent for 2005-06 and later years. I note the government remains committed to reducing the superannuation surcharge even further.

The committee also recommended that the co-contribution be extended—a good measure. In fact, this was taken up by the government and the coverage of the co-contribution has been significantly broadened from the original proposal. As part of the 2004 budget, the government has increased the co-contribution to 150 per cent of an employee’s personal contributions made from 2 July 2004 up to a maximum of $1,500. The thresholds have also been increased.

The committee also made a recommendation to remove the work test for making voluntary contributions for those under 75. In fact, the government has in the interim period removed the work test for making employer superannuation contributions for people under 65. However, people under 18 will be required to satisfy the work test in the year the contribution is made if they want to
claim a deduction. Additional work rules apply to people aged 65 and over. The work test is consistent with superannuation’s intended role as a retirement income vehicle. In fact, the government has simplified the superannuation contribution and payment rules for people aged 65 to 74.

The committee was concerned about the limited availability of tax deductions for the self-employed, but that concern was met during the interim period. The government has implemented an earlier election commitment to ensure that the level for the self-employed is lifted from $3,000 to $5,000 while retaining 75 per cent deductibility on amounts over the threshold.

One of the more interesting aspects of the government’s response is that the government research contends that, if the overall level of taxation on superannuation were to remain the same, shifting tax to the benefits stage would make no difference to an individual’s after-tax superannuation benefits. It is interesting also to note observations made by the OECD. A recent OECD survey of Australia found that, although superannuation is taxed at three stages, the end result is close to a system in which only end benefits are taxed. This is consistent with the findings of the World Bank research: Australian superannuation taxes over a working lifetime are not high by world standards—see Whitehouse, World Bank 1999. That is a significant evaluation and it puts to bed a lot of the theories about being high taxed in relation to the three points of superannuation taxation: on entry, on earnings and as it is taken out.

In its report the committee highlighted the burden of administering the surcharge and the associated cost to small business. In view of this it is not surprising that the government did not support the recommendation to transfer more of the administrative burden from superannuation funds to the ATO, but there is still a major administrative burden, particularly for small business in administering the surcharge.

Perhaps the most disappointing part of the government’s response to the committee’s adequacy report was in establishing a mechanism to deal with high health costs in the latter years of retirement, particularly for those outside the private health insurance network. The committee was very concerned about the need for mechanisms to help meet health care costs in Australia, including dental health costs, which are expected to increase significantly in the next four decades. Certainly, the government’s view in that report was influenced by the fact that 40 per cent of persons aged 65 years and older are holders of private health insurance and that for many of those persons the health costs associated with ageing can be quite significant. Despite the government not supporting this recommendation at this stage, it is a very serious issue given Australia’s ageing population, and the health cost issue cannot be dismissed indefinitely, particularly for those outside private health insurance.

The committee further recommended that the government continue to strive for universal and adequate superannuation coverage, with a focus on low- and middle-income earners. I am particularly pleased to see the measures which have been introduced to encourage older workers to remain in the workforce beyond the superannuation preservation age, particularly on a part-time basis. The report says that the government is committed to providing enhanced opportunities and greater choice for mature age workers, recognising that their skills, experience and ongoing contribution to the labour force will play a vital part in securing Australia’s future economic growth. As part of this commitment, the government has announced that a new mature age worker tax offset will be available to workers aged 55 and over. The
offset will provide a maximum annual rebate of $500 with effect from the 2004-05 income year.

The government has already legislated to remove age discrimination in relation to the employment of employees of the Australian government and remains committed to continued leadership in promoting community understanding of the economic and social imperatives of greater work force participation by mature age people.

The senior Australians tax offset and the reduction in the age pension income test taper rate from 50 per cent to 40 per cent also provide an incentive for people above the age pension age to continue working, as they may not have to pay any tax on their earnings and can keep more of their age pension—a good move on which we commend the government. I am also pleased to see that the government has supported the committee’s recommendation to monitor the uptake of complying annuities to ensure that the restrictions imposed do not inhibit the attractiveness of complying annuities. The government’s response says that it will continue to monitor the uptake of complying annuities to ensure that these products are attractive to retirees.

The government has also taken note of the committee’s recommendation that more resources be allocated by government agencies to assist people to prepare for retirement. It has taken on board the committee’s recommendation that the government consider the matters raised in the report in order to identify ways to make the superannuation system less complex and more comprehensible to the Australian people. To this end I believe it has introduced some good initiatives.

The government is committed to improving the financial literacy of Australians—a matter that is referred to in our report—so that they are better able to make more confident and well-informed decisions on the full range of financial products and services. The government established a consumer and financial literacy task force in February 2004 to develop a national strategy to improve consumer and financial literacy in Australia. The government is mindful of the need to reduce the complexity of superannuation and this is indeed welcome.

It is interesting to note the observations of the Australian Bureau of Statistics. The bureau’s research indicates that for the period from June 1998 to June 2004 the CPI increased by 19.7 per cent. This compared favourably with the cost of living index for self-funded retiree households, which increased by 18.6 per cent. This is particularly significant for retired Commonwealth employees who have been seeking a change in the scheme. I commend the government on its response. (Time expired)

Question agreed to.

DOCUMENTS

Auditor-General’s Reports

Report No. 26 of 2004-05


COMMITTEES

Membership

The DEPUTY PRESIDENT—The President has received letters from party leaders seeking to vary the membership of committees.

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs) (3.52 p.m.)—by leave—I move:
That senators be discharged from and appointed to committees as follows:

**Community Affairs References Committee**—
Appointed—Substitute member: Senator Cook to replace Senator Hutchins for the committee’s inquiry into the delivery of services and treatment options for persons with cancer

**Environment, Communications, Information Technology and the Arts Legislation Committee**—
Appointed—Substitute member: Senator Humphries to replace Senator Santoro for the consideration of the 2004-05 additional estimates on 15 February 2005

**Finance and Public Administration Legislation Committee**—
Appointed—Substitute member: Senator Fifield to replace Senator Heffernan for the consideration of the 2004-05 additional estimates on 14 February and 15 February 2005.

Question agreed to.

**DEFENCE AMENDMENT (PARLIAMENTARY APPROVAL FOR AUSTRALIAN INVOLVEMENT IN OVERSEAS CONFLICTS) BILL 2003 [2004]**

Second Reading
Debate resumed from 27 March 2003, on motion by Senator Bartlett and Senator Stott Despoja:

That this bill be now read a second time.

**Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.53 p.m.)**—I rise to speak today on the Defence Amendment (Parliamentary approval for Australian involvement in overseas conflicts) Bill 2003 [2004]. This Australian Democrats private senator’s bill, introduced jointly by my colleagues Senator Bartlett and Senator Stott Despoja almost two years ago, goes to the heart of democracy in placing the responsibility for the deployment of Australian serving men and women with the parliament. At the core of democracy is the notion that those who govern are accountable in some way to the consent of the people. If a democracy is a ‘government of the people, by the people and for the people’, the bottom line is that democratic accountability is indispensable.

Many Australians have found it very hard to believe that an important issue like sending our troops overseas to engage in war against another sovereign nation is actually excluded from our democratic decision-making processes. That a Prime Minister can commit Australian men and women to war without parliamentary consent goes against the basic principles that parliaments should be the providers of democratic legitimacy. It is contrary to democracy that Australia does not have the constitutional or legal powers to hold the executive of government accountable for such decisions. Parliamentary oversight in relation to war must be strengthened. That deficit must be addressed, and that is what this bill does.

Why is consent for war a good thing? In hindsight, the present war against Iraq provides many answers to that. Being accountable to the will of the people through the parliament will restrain democratic leaders and help prevent them from initiating foolhardy and risky wars. Committing the lives of citizens to an overseas conflict is no small decision. It requires that leaders be particularly cautious both when starting wars and in joining coalitions with others. They must be able to persuade others by the strength of the argument and by the evidence.

Political institutions such as Australia’s democratically elected parliament are the essence of democracy. It follows that in a democracy its leaders must be at some level answerable to the people. Instead, we have a
Prime Minister and cabinet whose decisions in relation to war are immune from public consent, who often keep the real reasons from public scrutiny and who bypass the checks and balances. Instead of democracy we have a government which has initiated violent actions against another sovereign state, continues to have the ability to engage in doomed foreign policy ventures and violates the human rights of countries in ways that cause immense loss of life and suffering.

Without parliamentary consent for war, we have a situation of empowerment of the individual at the expense of the collective. Many other countries do not allow their leaders to make decisions about war. The Netherlands and Germany are just two examples of countries that recognise that the armed forces are not a power tool of the executive branch and require the approval of the legislative branch before any declaration of war can be made. There are more: Hungary, where approval is required by a majority of two-thirds in parliament; and Slovakia, where the President can declare war only with the recommendation of the government. Even countries with presidential systems have provided an additional constitutional check on the power of the President with regard to war—no doubt based on, and likely to be due to, a history of authoritarian executive rule. These places include Honduras, Mexico, Nicaragua, Panama, Paraguay, El Salvador, Ecuador and Guatemala.

Countries where consent for war is not needed are presently contemplating legislation to redress that need. India is in that group. Even in the United States, President George Bush is not as free to take his country to war as our Prime Minister is. The United States Constitution vests the power to declare war in congress and not in the President. The President’s power was used without the approval of congress to engage in undeclared wars in countries such as Vietnam and this resulted in ongoing debate over which branch of government possesses the war powers of that nation. In the United States a bill was introduced in 2003 by representatives from Oregon and Texas to repeal the Iraq Use of Force Resolution.

This bill before us is, therefore, nothing out of the blue. Australia’s practice is outdated. Parliament must have a formalised role in Australia’s decision to go to war. Australia’s Constitution is silent about who can declare war for Australia, the circumstances in which we might go to war or where we can use military force as part of a unilateral or pre-emptive strike. But Australia’s Constitution was framed 100 years ago for governments operating according to the conventions and practices of Westminster, when Australia was seemingly firmly bound to the foreign policies of the mother country, the United Kingdom.

We should have moved on from the British influence on our policy by now. The UK government should not be held up as an example. In that country the Prime Minister, with the Ministry of Defence, can do as he or she likes because of crown prerogative. This arbitrary power once belonged to the monarch but through the decades has been transferred to the political leader, the Prime Minister. Crown prerogative is a system which spares the Crown and its representatives the tiresome constraints which affect the rest of us—like having to get parliamentary endorsement. It provides for arbitrary, secretive and the least accountable exercise of power. It is certainly not a system to be held up as a good example. It is an undemocratic privilege which enables prime ministers to order the country to war. Our own Prime Minister has similarly alarming powers.

Australia has obligations under international law. We are a party to the Charter of the United Nations. That charter, in article
103, has the status of a higher law in the international legal order. It means that our obligations under the charter must prevail over any other international obligations. The charter was established on two main principles—firstly, to bring about the resolution of international disputes by peaceful means, and, secondly, to recognise that the use of force would only be justified as a last resort in the interests of the international community and not individual states. By going to war against Iraq, Australia has breached its international obligations under the charter. The Prime Minister is directly responsible for this breach. The breach of international law has ramifications for Australia, in terms of both our security and our economy, and poses huge concerns for our Asian neighbours.

To make it worse, the Prime Minister will not rule out further breaches through engaging in pre-emptive strikes against other nations, such as Iran. The latest comments on Iran by the United States Secretary of State, Condoleezza Rice, should be of concern to all Australians who do not want this nation to again take part in pre-emptive strikes and get involved in a yet another drawn-out and destructive conflict. This is a prime example of why it is not appropriate for the decision to use force by our military to be left solely in the hands of the Prime Minister and cabinet.

This bill is essential to strengthen parliamentary control over the executive branch of government in the exercise of its prerogative powers. It places the responsibility for decisions to send Australian troops overseas with both houses of federal parliament, subject to exception in an emergency. We must remember that the Howard government was the first in Australia’s history to go to war without the consent of the parliament. It is a power that has been abused and that must not be allowed to be abused again.

I am hopeful that there are members of both major parties who will support this bill. I hope they will consider a conscience vote on the issue. In the ALP, Mr Laurie Brereton supported it in 2003 in a speech in the House of Representatives. Professor George Williams, from the Faculty of Law at the University of New South Wales, has written extensively on this issue. He commented:

While Parliament will not always be the right body to determine such an issue, especially where an immediate decision is required based upon confidential security information, there may be a role for Parliament as a decision maker where there are serious doubts about the justification for unilateral pre-emptive action.

I think we can say that is what happened in the case of Iraq—in fact, that describes exactly the Iraqi situation. There were serious doubts about the justification for unilateral pre-emptive action. The situation with Iran is unfolding in a way that is disturbing—like what occurred prior to the Iraq war. Iran says it has no plans for nuclear weapons. Just yesterday the Iranian president said in a speech:

We give our guarantee that we will not produce nuclear weapons because we’re against them and do not believe they are a source of power. But we will not give up peaceful nuclear technology ...

US Secretary of State, Condoleezza Rice, says Washington has no deadline for progress in negotiations with Iran over its nuclear plans. Iran has suspended key nuclear works such as uranium enrichment while it negotiates with the European Union, which is offering trade deals and other incentives if Iran permanently scraps potential weapons related nuclear activities. We can only hope that the United States does not choose to again work against the international community on Iran and does not go around the United Nations and international laws and launch a pre-emptive strike over claims that another nation has nuclear weapons or might just develop them in the future. If that does
occur, then the Prime Minister should not be able to involve Australia in an unnecessary and illegal war yet again.

Senator FERGUSON (South Australia) (4.04 p.m.)—I also rise to speak on the Defence Amendment (Parliamentary approval for Australian involvement in overseas conflicts) Bill 2003 [2004]. I listened very carefully to what Senator Allison had to say in relation to this bill. I have also read the second reading speech of Senator Bartlett. It is pretty obvious that the people promoting this bill have never been involved in executive government and they are unlikely to ever be involved in executive government.

The one thing that Senator Allison said that I totally agree with is that democratic accountability is an integral part of the democratic process. Senator Allison, I could not agree more. That is why we have elections every three years. We have elections every three years so that the government can be held accountable for its actions. If the proposal put forward by the Democrats almost two years ago carried any weight at all with the Australian public—if what they say is true and is accepted by the Australian people—then you would have thought the Democrats, instead of going from six or seven per cent down to a mere two per cent in the election, would have gone to over 50 per cent, but that simply is not so. Understanding democracy is more than suggesting that, every time somebody comes up with an idea, you have to go to the people so that they can decide on every single issue.

Senator Bartlett interjecting—

Senator FERGUSON—Senator Bartlett, I sat very quietly while Senator Allison made her speech, most of which I totally disagreed with. So I suggest that Senator Bartlett, having made his contribution, might do the same thing. There are other issues that Senator Allison has raised. I say what I am saying because, as a minor party—and possibly they will be supported by other minor parties—they have never been in the executive; they have never been part of a government. Because they have never been part of a government, they do not understand the processes that are required by executive governments to act.

The actions taken by an executive will be judged by the Australian people every three years. I am sure Senator Bartlett is well aware that the Australian public have made their judgment on the decisions taken by this government. They made their decision on 9 October last year, and they overwhelmingly endorsed the decisions taken by the Howard government over the past three years and returned them with an increased majority. It is just a small matter that Senator Bartlett and Senator Allison seem to have overlooked in their own demise, knowing that the support that they have has diminished to such a low level. I noticed that Senator Bartlett, in his incorporated second reading speech, said:

I know that, over current events, many Australians have been shocked to discover that the Prime Minister has the power to send our troops to a conflict without the support of the United Nations, the Australian Parliament or the Australian people.

What a load of bunkum! Nothing has changed in the last 100 years. People have always known that the executive has had the power to make those decisions. In fact, when those decisions were made by the former Labor government, on a couple of occasions but most particularly in the case of the first Iraq war, the executive made that decision. True, the first Iraq war decision was later ratified by this parliament, and I am sure that the Prime Minister of the day knew he had the support of the opposition to go into partnership with the United States in that coalition, but the executive made the decision. That kind of decision is made for a whole
range of reasons, some of which are never available to members of parliament, to minor parties or to the Australian public. I am talking about the intelligence advice that is given to governments on a confidential basis—and which can only be told to the government of the day, with some information being provided to the opposition of the day as well—as to the reasoning behind certain actions being taken.

Once you make all of that information public, you do not have any intelligence. Intelligence can only be gained and guaranteed to be genuine and not something that we all know about if it is told to as few people as possible, and particularly to those in executive government. Australia’s record over the past period of years has been so sound that we are now in possession of a wider range of intelligence because they know that Australia can be trusted, that successive Australian governments can be trusted with what they do with information that is supplied to them.

Senator Bartlett says that Australians were shocked to discover that the executive could commit us to deploy troops overseas. I say that is a load of bunkum, because I do not know anybody who was shocked to find that the Australian government could make that decision without having it referred to anybody else. A number of issues have been raised by Senator Bartlett and by Senator Allison. One of them was:

It is time to take the decision to commit troops to overseas conflicts, out of the hands of the Prime Minister and a subservient cabinet ...

I notice one of our cabinet ministers, Senator Vanstone, is in the chamber today. I am quite sure that Senator Bartlett, because of his position as a minor party member, would not know the robust sorts of debates that go on in a cabinet. Senator Vanstone would be the last person that I would call a subservient member of cabinet. I know a lot of her colleagues debate decisions very robustly, whether it is in cabinet or outside of cabinet. To talk about the Prime Minister taking decisions and to talk about subservient cabinets is a load of rubbish and should be treated with the contempt it deserves.

I have heard the Prime Minister himself say on many occasions, ‘Don’t think it was an easy decision for us to make.’ He personally agonised, along with members of his cabinet, over the decision we made to deploy troops to Iraq. That sort of decision is never easy. We live in a democratic society and that decision was made in the knowledge that, at some stage later, the Australian people will make a judgment as to whether the decision was warranted or not.

Rather than criticising the decisions made by successive governments, particularly the Howard government, Senator Allison should be lauding the successes of Australian troops who have been deployed overseas in recent years. I think of the wonderful successes of our troops in East Timor, Bougainville and the Solomon Islands. All of those troops are playing a very important role and, in many cases, were invited because of the quality of the work that they do and the responsibility that is placed on them. Instead of criticising decisions to deploy troops overseas, Senator Allison and Senator Bartlett should be praising the decisions that have been made by this government and the wonderful work done by our Australian troops that have been deployed overseas in recent times, who have acted at all times in the best interests of this country.

We have had these speeches by Senator Bartlett and by Senator Allison talking about democracy and what democracy can do and saying that, if we are going to commit our troops overseas, nothing can be done without first debating a bill through the parliament. Sometimes that simply is not possible. I
think it is worthwhile putting into *Hansard* some of the purposes of our defence power. The authority to pass legislation in respect of defence matters flows from section 51(vi) of the Constitution, which relates to naval and military defence of the Commonwealth and of the several states. It allows the authority for the Commonwealth parliament to make laws in relation to defence, if it chooses to do so. However, the defence power is not based on legislation but is an inherent part of the executive power under section 61 of the Constitution. The defence power is exercisable by the executive government—which is something that Senator Allison and Senator Bartlett seem to overlook—and the nature of the power expands and contracts depending on the nature of the emergency or the situation that has to be dealt with. That is why it is an executive power—because it expands or contracts depending on the nature of the situation.

The defence power is very elastic. In peacetime it is very limited and there must be a close link to essential defence matters for exercise of the power to be justified. However, in a time of war the defence power can be exercised very broadly and almost anything which assists the prosecution of a war effort can be justified, subject to the controls of parliamentary approval through legislation. In order to actually engage and fight an enemy, the Commonwealth—and hence the ADF—needs no emergency legislation nor any formal declaration of any sort such as an emergency, defence emergency or war. In addition, the ADF needs no formal documentation, whether by way of legislation, regulations, proclamations, declarations, call-outs et cetera to undertake its business of engaging a hostile enemy in the defence of Australia. The defence power essentially depends on the nature of security situations. Courts are more likely to give a restrictive interpretation during times of peace and a broad interpretation in a situation of war or of armed conflict.

Senator Allison also mentioned the United Nations. I think much of the discussion that has taken place, particularly in the past 12 or 18 months in relation to our involvement in military conflict in Iraq, has related to the United Nations and whether or not we breached international obligations. Arguments can be put on both sides of the case, but in fact Iraq was in breach of a United Nations resolution. That is well known. Since it was in breach of the resolution, it will be argued that the deployment and the conflict that took place were therefore not a breach of any international obligations.

Having spent the duration of a United Nations General Assembly in New York some four or five years ago at a time when many things like this were being discussed, I came away with a very complex view of the ability of the United Nations to deal with potential armed conflicts throughout the world. I think the United Nations does wonderful things in some areas: it is very good at education, it is very good at world health issues, and it is very good where there is cooperation between the peoples that are trying to be helped. When it comes to solving armed or political conflicts the United Nations has been a dismal failure; otherwise, why would we still be negotiating peace agreements in the Middle East 50 years after the United Nations first tried to get a settlement between Israel and its neighbouring countries? If the United Nations were as capable as people suggest, it would not take 50 years for a political conflict like that to be resolved.

What about all the other areas in the world where tragedies have occurred in the past 10 or 15 years? What about Kosovo? How long did it take the United Nations to react or put anything in place to stop the tragedy that occurred there? Think about all the others:
Rwanda, Somalia, Ethiopia and the Sudan— when has the United Nations been able to solve political and civil conflicts where tragedies have occurred time after time? In recent times it has been the role of the United Nations to come in and clean up the mess after the tragedy has occurred, but rarely has it ever prevented a tragedy. It has taken, in many cases, the intervention of a superpower like the United States and other strong military powers to try and stop these tragedies occurring.

I have always been very disappointed that, on the role of the United Nations, which is played so publicly, people say, ‘Everything should be left to the United Nations.’ As I said, some things the United Nations does very well, but in avoiding conflicts, preventing military conflicts and preventing the kinds of tragedies where we have seen hundreds of thousands, if not millions, of people actually killed over the past 15 years, it has proved to be almost helpless in each of those situations.

There are times when as world citizens we have to make sure that we are involved in decisions which we hope will provide betterment for mankind. If those people in this place who have been so critical of Australia’s involvement in Iraq are so keen on improving the democratic process, they need only look at the elections which took place in Iraq a couple of weeks ago where, against all expectations, some 60 per cent of that population exercised their democratic right to vote—the first opportunity they have had for years. Each one of those people who fronted the ballot box knew there was some danger in doing so—I do not know many Australians who would go to the ballot box if they thought there was some chance of being harmed—but they were determined to be able to exercise their democratic right. If you asked any one of those people, they would say they were very glad that the intervention took place. They might not always like every aspect of it or what has happened, but each one of those people would be very glad that an intervention took place which enabled them to have the democratic right to vote.

It is very important when we are looking at the overall issue of our involvement in military conflicts, the role of the United Nations and all those other issues which are raised and thrown into the melting pot in order, sometimes, to try and cloud the issue, that we take it back to the people—and the people in this case do know what democracy means. Senator Allison started off today by saying that democratic accountability is an integral part of our democratic process. I hope for those people who have suffered under an intervention that was necessary some two years ago that in 12 months time they will have another chance to exercise their democratic right when some democratic accountability will take place. In Australia democratic accountability takes place every three years. Don’t talk about the democratic process on a daily basis; talk about the democratic process the way it has been instituted in Australia and has been successful for the past 100 years.

Senator Bartlett interjecting—

Senator FERGUSON—Senator Bartlett, if you can name me more than five countries that have had a continuous democratic process as successful as Australia’s in the past 100 years, I challenge you to do so. There are no more than five other countries that have had a longer continuing democracy than Australia. Our democratic process has proved itself. We have had stability for all those years. Everybody has a right to free speech. You are allowed to come into this place and say the sorts of things that you say when in half of the countries in the world you cannot. Our democratic process is healthy. It always will be healthy as long as
we continue on the path that we have over the past 100 years.

I oppose this bill. It is unnecessary. It goes against the successful operation of governments of both political persuasions for the past 100 years. I am sure my colleagues on the other side of the chamber will know that, even during their time of government, they used executive powers successfully in deciding whether or not our troops should be deployed overseas, and they had the support of this side of the house whenever they did it. With those words, I oppose this bill in total.

Senator HOGG (Queensland) (4.21 p.m.)—The opposition oppose the Defence Amendment (Parliamentary approval for Australian involvement in overseas conflicts) Bill 2003 [2004]. We believe that it restricts the option of a government to deploy Australian forces overseas in the defence of Australia at short notice. We believe the substance of the bill—

Members of the Army may be required to serve either within or beyond the territorial limits of Australia.

It is not a very extensive statement, but nonetheless it gives a very broad authority to operate in theatres other than Australia, which, of course, is necessary in the defence of this country. But I believe that the proposal put forward by the Democrats is very shy on detail and provides nothing more than a mere point of debate here this afternoon. I am not going to go through all of the document, but subclause (2) of the Democrat proposal to replace the existing clause 50C says:

Subject to subsection (3), members of the Defence Force may not be required to serve beyond the territorial limits of Australia except in accordance with a resolution—

Note that word ‘resolution’— agreed to by each House of the Parliament authorising the service.

When I tried to find out what was meant by ‘a resolution of the parliament’, I was not able to find out anywhere in the second reading speech or any accompanying material what was meant. This makes the mind boggle when one gets down to the strategic reasons for which we become involved in a theatre of war or where violence is occurring overseas.

One would have to ask: what would be in the resolution and what would be the constraints placed on the government that were charged with the defence of this nation by such a resolution? Would it go to issues such as the rules of engagement? I know through my various attempts to pursue issues at estimates with the Minister for Defence, Senator Hill, that the government—whether one necessarily likes what they do on all occasions or not—are very meticulous in the rules of engagement. The rules of engagement are most important. If they are left at the beck and call of a parliament which might not be
fully informed or have at its disposal all the information, then our forces may well be adversely affected by a resolution of the parliament as to their engagement. Would such a resolution include the strategy to be involved in such an engagement? Would it have time limits? What time limits would there be? What other conditions might apply? This is not evident.

The subsection talks about the resolution being agreed to by each house. I am sure that this was put by the Democrats with the idea that they had the ‘balance of power’ in this Senate. Now that that will change from 1 July, what do they think? Even if it were the case that there was a party in this chamber that had a balance of power, would one necessarily need the vote of both houses? Or would we be faced with the ridiculous situation of it being a matter which would require the double dissolution of this parliament to have ourselves defend ourselves? I do not think that that is the intention at all, but it is not drawing a long bow when one thinks that this is not—

Senator Bartlett interjecting—

Senator HOGG—It is not outlined in the bill, Senator Bartlett. You are quite right. Subclause (4) of the proposed 50C says:

If the parliament is not in session when a proclamation under subsection (3) is made—

this is referring to a proclamation made by the Governor-General under the proposed 50C—

it shall be summoned to meet within 2 days after the making of the proclamation.

That in itself is impractical. That is when parliament is not in session. It implies that everyone is close at hand and able to be summoned to participate in the debate within two days. Meanwhile, very strategic issues are passing us by, and that might not be in our interest. There are no grounds for the delay under such circumstances. Those are just a couple of very pointed things that stand out from the proposed 50C put forward by the Democrats.

I looked further to try and find some explanation for what might be happening, so I looked to a briefing paper which had the name of Senator Bartlett on it. It is a very small briefing paper. It reads:

The purpose of this Bill is to place the responsibility for the decision to send Australian troops overseas with both Houses of Federal Parliament ...

I do not know if the Democrats are talking about a declaration of war. Are they talking about war? Are they talking about overseas conflicts? Precisely what are they talking about? One will find out, when I go into some of the definitions later on, what this entails. They go on:

... subject to exceptions covering the movement of personnel in the normal course of their peace-time activities ...

That statement is not elaborated on anywhere. What are pacetime activities? It really begs the question in this day and age. Last but not least it says:

... and the need to take swift action in an emergency.

One does not necessarily know what ‘emergency’ means in the minds of the Democrats or others, but it certainly may mean different things to them than to the opposition or to the government of the day. It went on to say:

It is based on the principle that the Executive should not be able to involve Australian troops in an overseas conflict.

I have heard those words repeated again today by Senator Allison, and I see they are in Senator Bartlett’s second reading speech. What do the Democrats mean by “an overseas conflict”? Is an overseas conflict peace-keeping? It is quite possible that, in an overseas peacekeeping operation, there is conflict going on. And there are different terms, dif-
ferent rules of engagement, where we are involved in peacekeeping as opposed to where we may be involved in peace enforcement. The rules of engagement for peace enforcement may be quite different.

That came to the fore in our involvement in East Timor. Our forces there were certainly not, in the first instance, in peacekeeping mode. They were certainly there for peace enforcement and the rules of engagement, as I understood them when outlined at Senate estimates, were quite different from those that applied to our forces who later played a purely peacekeeping role. There have been numerous instances where our forces have been in areas overseas where there has been conflict—recently in the Solomon Islands and also, of course, in Bougainville. Whilst this might sound warm and heart rending in terms of what the Democrats are putting forward, it has some very practical implications for the engagement of our forces overseas. The last sentence that I want to focus on in the briefing paper from Senator Bartlett says, of the matter being determined by parliaments, that this ‘already applies in many other democracies’. That was reiterated here today by Senator Allison. I heard mentioned the Netherlands, the GDR, Hungary and Slovakia. But I am going to look at some other places where this is not the case.

We have before us a bill which, in my view, is fundamentally flawed to start off with. Whilst it might represent the view of a number of sympathisers of the Democrats, it does not necessarily lead to a proper process for government when they have to react to situations. I would have thought that, if the Democrats were to bring something before us that was more soundly thought out, we would be in a better position to argue the toss as to what might happen or should happen under the terms of any legislation that they propose. But I do not think they have given that to us today.

I asked the Parliamentary Library for some information on the operation of the Constitution and the Defence Act 1903. That has been alluded to by some; and, given that I have about eight minutes left, I will quickly skip through the advice that the library has given me. The library said that there are three constitutional provisions worth mentioning in relation to defence matters. They are: section 61, the executive power of the Commonwealth; section 51(vi), which enables parliament to legislate for the defence of the Commonwealth; and section 68, which makes the Governor-General the commander-in-chief of the defence forces. The briefing note from the library goes on to point these facts out, and I will incorporate them for those people who are interested in this debate. The note states:

Section 61 refers to the Governor-General as the person who exercises the executive power of the Commonwealth but two things are worth mentioning here. First is the doctrine of responsible government. I think that is terribly important indeed. It goes on:

Second is the convention that in all but a few instances (what are called the reserve powers) any actions taken by the Governor-General are taken on the advice of the Government of the Day. That is how our democracy and our democratic processes have worked. The note continues:

... although the Constitution says that the Governor-General wields the executive power of the Commonwealth, in reality, decisions are made by a member or members of the Executive Government.

Of course, that is no more true than is seen with the influence of the Prime Minister in any executive government. Formal declarations of war have not been made on many occasions in Australia’s past. The expres-
tions used in the Defence Act are ‘time of war’ and ‘war’, and they are both defined in the act. ‘Time of war’ is defined as:
… any time during which a state of war actually exists, and includes the time between the issue of a proclamation of the existence of war or of danger thereof and the issue of a proclamation declaring that the war or danger thereof, declared in the prior proclamation, no longer exists.

‘War’ means:
… any invasion or apprehended invasion of, or attack or apprehended attack on, Australia by an enemy or armed force.

That is important because the word ‘war’ is used in the briefing paper by Senator Bartlett and the words ‘where conflict is taking place’ are used, so we get into some fairly important definitional terms. The Governor-General is the person responsible for the declaration, but the Governor-General is not an independent decision maker for these purposes. He or she acts on the advice of the government. The library did provide me with a number of the proclamations that have been made. There was one in 1939, which is understandable. In 1941 there was a state of war with Finland, Hungary and Romania. Also in 1941 there was a state of war with Japan. In 1942 there was a state of war with Bulgaria. In 1942 there was a state of war with Thailand. In 1952 there was one declaring that war no longer existed.

That is the sum total of declarations. Declarations of war no longer seem to prevail or be the flavour of the day. So when one talks about overseas conflicts one needs to be very careful about what one means by an overseas conflict. One needs to be careful with the word ‘war’. We had a role in East Timor. There was clearly an overseas conflict; there was clearly a war taking place in East Timor between some dissident forces and those people who ultimately achieved their personal freedom. In my view, the same could be said to have been the case in the Solomon. There are other cases as well: Bougainville, Sudan, Rwanda and so on. In that sense, it is very important to see what the definitions actually are.

Turning to what happens in overseas democracies, let us look at Canada. The advice I have from the library tells me:

As a matter of Canadian constitutional law, the situation is clear. The Federal Cabinet can, without parliamentary approval or consultation, commit Canadian forces to action abroad, whether in the form of a specific current operation or possible future contingencies.

It goes on:
As far as the Constitution is concerned, Parliament has little direct role in such matters.

In terms of Europe, the advice examines the position of 13 European countries. Of the countries examined, nine require parliamentary approval before a declaration of war is made, although the issue is more uncertain as regards deployment of troops under international treaties which bind each country. We are in another area once again. In Great Britain the advice says:

The deployment of troops and the issuing of orders to engage in hostilities are matters of Royal Prerogative, exercisable by Ministers. The Government has liberty of action in this field, and Parliament need not give its approval.

In Ireland the position is:

War shall not be declared and the State shall not participate in any war save with the consent of the Dail—

which is the lower house. But I understand that that is not the same in relation to the upper house. In Russia the Constitution appoints the President as supreme commander-in-chief of the armed forces and gives the office power over foreign policy and martial law. The Constitution generally provides for a strong presidency with a limited role for the Duma. The library’s advice also covers South Africa, the United States and so on. So
there are varying circumstances. There might be some places where parliamentary approval is required, but not everywhere—not in a majority of countries by any means and not in some of the major nations of the world.

We would say that governments in this country are tested at the polls. If the government of the day are acting irresponsibly and out of step they will be voted out by the people of Australia. They are held accountable by the people of Australia. Given the nature of conflict overseas it is not possible to bring every conflict into this chamber or into the other place for determination.

Senator NETTLE (New South Wales) (4.41 p.m.)—Going to war is the most serious decision that any government can make. And right now the people of Iraq know that well. War has enormous costs and consequences that can last for generations. People are killed and maimed, cities are destroyed and damaged, environments are devastated, and economies and societies are turned on their heads.

The Defence Amendment (Parliamentary approval for Australian involvement in overseas conflicts) Bill 2003 [2004] that we are debating today is one that any government that claims to be democratic should support. The decision to go to war, to deploy Australian troops overseas, should go through the parliament and should be in the hands of the people. The ongoing war in Iraq, in which Australia is deeply involved, highlights the importance of the issue. If this bill had been in place before 20 March 2003 we would never have joined the folly that is the ongoing war in Iraq. And the Greens, for example, would not have to continue to call for the immediate withdrawal of Australian troops from the Iraqi occupation.

The reasons that the Howard government gave for going to war have been proven to be false. Iraq never had weapons of mass destruction and had effectively dismantled its programs; al-Qaeda was never involved with Iraq, although Islamist groups connected with al-Qaeda now are. The warnings by the Greens and others in the Senate who voted to oppose the war have proved to be remarkably insightful. As many as 100,000 Iraqis have died and many more have been injured and displaced. Over 1,600 coalition troops were killed and almost 10,000 have been wounded, the majority seriously. A country that was already brought to its knees by a decade of murderous sanctions in which Australia played an important role has been devastated. Iraqi residents now have only a few hours of electricity a day, and water supply services and the health system are barely functioning.

In 1953 the then President of the United States and former general, Dwight Eisenhower, said:

Every gun that is made, every warship launched, every rocket fired signifies in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed. This world in arms is not spending money alone. It is spending the sweat of its labourers, the genius of its scientists, the hopes of its children. This is not a way of life at all in any true sense.

Australia has already spent almost $1 billion on the war and, as we saw this week, the White House has been forced to hide an additional $80 billion earmarked for Iraq and Afghanistan in order to claim that it is cutting the US deficit. This has implications for all of us with the global economy so tied to the health of the United States economy.

Another two years of the war could seriously damage the global economy, but unfortunately there appears to be no end in sight. The chants of ‘no blood for oil’ that we heard from millions of people around the world who protested about the war almost two years ago pinpointed the heart of the prob-
The addiction of the United States and Australia to oil is driving this war. Despite the growing threat of climate change, the neoconservatives who now run the White House intend to maintain and extend the policy of control in the Persian Gulf rather than pursue alternative energy policies that focus on renewables, for example. As a result, more US soldiers and possibly Australian soldiers will die to secure the second-largest oil reserves in the world. This is why the recent elections, while significant, are not a turning point.

The elections are a testament to the bravery and tenacity of many Iraqis who not only voted but had previously forced the United States to allow the elections. Despite this, unfortunately the elections were not genuinely democratic. An election in a country under occupation by 170,000 foreign troops, with a state of emergency in force, and in which most of the candidates’ names were kept secret would generally be criticised by Western governments, but here it was hailed as a success. The initial claims of a 60 per cent turnout have proven to be wrong, with the turnout reported to be much lower and the election effectively boycotted in many towns and cities. The international turnout was as low as 22 per cent. Allegations of voting being linked to receiving rations and of ballot boxes being transported by US troops in the north will not be investigated by international observers, because they were forced to remain in Jordan. The Carter Centre, which monitors elections worldwide, refused to send observers, because the election was clearly not going to be free or fair.

Announcement of the election result has been delayed again today, but we have an idea of the result. Despite the White House support for Allawi’s ticket, the overwhelming vote was for the religious coalition of Shia groups. This should come as no surprise to people who have closely followed the situation in Iraq. These groups campaigned on a platform which included the removal of foreign troops. This is a further blow to those who hoped for a secular Iraq, with the Shia religious leaders already indicating that they want to implement sharia law. Already in the south, women are being forced to wear black from head to toe.

Currently the nationalist and Islamist insurgency is largely restricted to about 30 per cent of the population. If the Shiahs who voted for the withdrawal of foreign troops do not see change, they too may join in with the insurgency, and the insurgency may well become unstoppable. It is possible that an Iranian-style government that is hostile to the United States will develop in Iraq, although recent statements by the Shia leaders suggest that they are open to privatising Iraq’s oil, which is a major policy objective of the White House.

It is clear that the United States will attempt to stay in Iraq whether or not the new government wants it to. Fourteen military bases are under development by the United States, and the Pentagon is planning a long-term deployment. This terrible war will continue. If the policy of the Howard government remains then Australia will continue to be entangled in this quagmire. The war will not end until foreign troops are withdrawn. As long as foreign troops remain, the insurgency will grow. The election result will potentially increase this conflict, not lessen it, as the Shiahs get more annoyed. Australia’s best contribution to peace would be to join Hungary and Ukraine, who recently withdrew their troops, and allow the Iraqis to determine their own future. We must not join future disastrous and illegal wars in Iran, Syria or anywhere else.

Senator KIRK (South Australia) (4.48 p.m.)—I rise to speak on the bill that Senator
Bartlett has presented to the parliament, the
Defence Amendment (Parliamentary ap-
proval for Australian involvement in over-
seas conflicts) Bill 2003 [2004]. As Senator
Hogg indicated, the opposition opposes this
bill and does so for a number of reasons.
Many of those reasons have been outlined by
Senator Hogg. I was listening to his speech
and I noted with interest the number of defi-
nitional ambiguities that he has identified in
the bill which make it most unclear as to how
the bill would operate in practice. In addi-
tion, there is the simple impracticability of
the bill insofar as it will require gaining ap-
proval of the parliament at very short notice.
In some circumstances this could very much
disadvantage the position of our troops and
could also disadvantage us strategically.

This afternoon I want to focus on a num-
ber of legal issues surrounding this bill—
how it may operate and other such things. I
think Senator Allison mentioned in her
speech that within the Australian Constitu-
tion it is surprising to see no mention made
of who has the legal authority to declare war
and/or to make the decision to deploy our
troops to an international conflict. The rea-
son there is no mention made in the Austra-
lian Constitution is that back in 1901, around
the time that our Constitution was being
drafted, Australia was in a very different po-
sition internationally and in relation to its
foreign policy. At the end of the 19th century,
when the Constitution was being framed, we
were still very much part of the British Em-
pire. Inasmuch as we had a foreign policy it
was really that of the British, so the founding
fathers would not even have contemplated
the inclusion in our Constitution of any sort
of reference to who or what in Australia had
the authority to make a decision to declare
war and/or to deploy troops to a conflict. So
it is quite clearly the case that there is no
express reference in the Australian Constitu-
tion to this matter. But legal scholars and
others have said, and it is no doubt the case,
that the authority that gives a legal basis to
the deployment of troops or the declaration
of war arises from the executive power of the
Commonwealth. This is set out in section 61
of the Constitution, and Senator Hogg talked
about that in some detail.

It is quite clear that in the past the declara-
tion of war has been considered a prerogative
power of the Crown and it is now recognised
that the prerogative powers of the Crown are
given expression in section 61 of the Consti-
tution. It is there that the legal basis or au-
thority for the declaration of war and de-
ployment of troops resides. In our system of
government this essentially means that, be-
cause it is an executive power, at the end of
the day this power resides with the Prime
Minister and with his or her cabinet. This is
what we saw in the case of the Iraq war.
There was a decision made by the executive
to become involved in the Iraq conflict and it
was only subsequent to this decision being
made that the Prime Minister sought en-
dorsement of that within the parliament. As
we are all aware, a motion was passed both
in the House of Representatives and then
later here in the Senate endorsing that deci-
sion that had already been made by the
Prime Minister. So it is quite clear, under our
existing system of government, that parlia-
mentary approval is not necessary for the
deployment of troops—and this is what this
bill goes to, what this bill seeks to change
and what we are discussing here today.

Before I move on to the way that this leg-
islation would work, I will just refer to what
a couple of other speakers have already made
reference to, and that is how similar situa-
tions are dealt with under other constitutions
and in other jurisdictions. Senator Hogg re-
ferred at length to what happens in European
countries. As he pointed out, in some coun-
tries there is parliamentary approval in-
volved, not necessarily from both houses but
possibly from one house of the parliament. France is a good example. There is constitutional entrenchment of this in article 35 of the French Constitution. Of course other European countries have provisions as well. I think a couple of speakers, including Senator Allison, have made reference to the United States. She mentioned, and it is quite right, that this matter is dealt with by article I of the US Constitution. It vests the power to declare war in congress and not the President. So you have article I that invests power in the congress, requiring congressional authority for the declaration of war, but then article II provides that the President is the commander-in-chief. As a consequence of this provision, the President has been able to exercise his power without the approval of congress to engage in wars in countries such as Vietnam. This in turn has given rise to some debate in the United States, which I think Senator Allison referred to. So on the one hand you have this constitutional entrenchment but then on the other hand this second provision in effect allows the President, as commander-in-chief, to embark upon a war on behalf of the United States. That is the situation in the United States.

Our system is a great deal more similar to the one in the United Kingdom. As we know, our system of government was very much based on their system of responsible government. In terms of the war in Iraq, in the United Kingdom there was no constitutional requirement for parliamentary approval of a decision to go to war, but the political reality in that country very much demanded that the Prime Minister take this matter before the House of Commons. Again, this is a matter of responsible government. If the Prime Minister had not enjoyed the support of a majority of the members of the House of Commons, he would have run the risk of a motion of no confidence. We know that, if that had occurred, as a matter of constitutional convention it could have led to the resignation of the Prime Minister. That is the situation in two similar democracies—the United States and the United Kingdom. I will now return to our situation.

As I mentioned at the outset, it is the case that there is no constitutional provision in Australia. If we decided that we wanted to introduce a system of parliamentary approval, it could be done in a couple of different ways. The first possibility would be to effect a constitutional amendment—if that was the course we decided to take. But we know about constitutional referendums in this country and the chances of success—they are unlikely to gain the required majorities of the people and the states in order to effect this change—so that is something that realistically would have to be ruled out. The other option is the one that Senator Bartlett is attempting to achieve by introducing some legislative change under section 51(vi) of the Constitution, which is why we are here today talking about this. Under this legislative head of power it is quite possible for the Commonwealth to enact legislation that would perhaps introduce into our system of government some form of parliamentary approval before troops were deployed or a declaration of war was made.

That brings me to this piece of legislation. Whereas I can understand the motivations for the introduction of this legislation, I think that, as Senator Hogg detailed quite comprehensively in his speech just a moment ago, there are a number of ambiguities with it as it is presented at the moment. There are a number of definitional ambiguities which really make it most unclear how this legislation would operate. Even if it is accepted at face value and we take it for what it is intended to mean, it is quite apparent that the number of difficulties that would arise in terms of practicalities to bring about the result that is sought really are too many to con-
template, especially in the context in which these decisions would be made—that is, in the context of going to war or embarking upon some kind of international conflict.

It also goes back to the underlying issue, which is that these types of decisions are decisions for the executive. It has always been the case under our system of government that only the executive has the power to make these decisions. But it is more than just a matter of power; it is also a matter of the institutional ability and the information required to make these very important decisions such as the declaration of war or the deployment of troops. As we know from the way that our government works, it is certainly the case that this kind of information is only within the province of the executive. So it is only the executive who have the necessary information to make an informed decision about whether this is the way to go.

It is also only the executive who have full and proper knowledge of military matters and strategic decisions. It is the executive who have the one-on-one contact with our allies. There will often be cases where information simply cannot be made public. If it were to be made public it could very much undermine our strategic position when we are about to embark on a war. This could not even be overcome by holding a secret session of parliament, or something of the like, because that is contrary to our system of government and it would not be the proper manner in which to do this.

I have also mentioned the question of the time frame. Quite often, the decision to deploy troops or go to war has to be made very quickly. We have had some recent examples of this, such as the deployment of troops to the Solomon Islands following the shooting of the AFP Protective Service officer Adam Dunning. The troops were deployed in order to prevent any escalation in violence. So that is an example of where a decision had to be made quickly. If this legislation had been in force, parliament would have been required to be recalled before troops could be despatched to the Solomon Islands. That would have been most difficult and inconvenient. Similarly, when the troops were deployed to Aceh, following the Boxing Day tsunami, the provision of this relief assistance would also have required the approval of the parliament. In circumstances such as the tsunami, where there had already been an incredibly large loss of life, had there been this further delay waiting for parliamentary approval then—who knows?—there could well have been a further loss of life.

These practical concerns surrounding this bill suggest that it is not the way to go. There have been some suggestions made by various legal scholars that, whereas this bill does not achieve the right balance between the necessity to deploy troops and the perceived need for some kind of parliamentary role, instead of requiring that both houses of parliament vote on such a matter it could perhaps go to a vote in the House of Representatives without involving the Senate. But, as has been pointed out, that is pointless because the executive government has a majority in the House of Representatives. If it were to go to the House of Representatives there would be very little debate in any event—a vote would be taken and we would all know the result. The issues that were highlighted before about delay in the system and the difficulties of any kind of parliamentary involvement would also still be there.

Professor George Williams, in an article that he wrote towards the end of 2003 in the Australian Financial Review, suggested a compromise. His idea was that perhaps this decision could be made by a joint sitting of the two houses of parliament and therefore all members would be able to make their contribution. But at the end of the day, the
government would have the numbers if and when it was put to a vote and the decision of the executive would ultimately be endorsed. Professor Williams said:

This would involve an appropriate measure of symbolism and deliberation. It would not, however, remove the capacity of the government in most cases to determine the course for the nation, for which it will ultimately have to answer at the ballot box.

Whereas I can see that there is some merit in this compromise, as Professor Williams puts it, the context in which these decisions are being made indicates that they are not the kinds of matters that should involve parliamentary participation before the decision is made. Of course once the decision is made, there is nothing to stop a parliamentary debate—in fact I think it ought to occur. That happened after the decision was made to deploy troops to Iraq. It gives every opportunity to every member of the House of Representatives and the Senate to make their contribution and, if necessary, indicate their disagreement with or objection to the decision made by the executive government. I for one expressed such sentiments in the speeches that I made following the decision by the government to deploy troops to Iraq. So I still maintain that it is better to go with the position we currently have. It is part of our tradition and history and it is not something that I think should be tampered with lightly. It is for those reasons that I believe and the Labor opposition have indicated that we are unable to support this bill.

Senator SANDY MACDONALD (New South Wales) (5.06 p.m.)—I understand this minor party legislation, the Defence Amendment (Parliamentary approval for Australian involvement in overseas conflicts) Bill 2003 [2004]; it is just that I do not agree with it. We have had some very erudite contributions from Senator Kirk, Senator Ferguson and also Senator Hogg. It was interesting to hear their arguments, particularly because the opposition do not support this legislation either.

It was interesting to hear what Senator Hogg said about some of the practical problems with the legislation—that you might have to have a double dissolution before you could declare war or go to war. It was also interesting to hear from Senator Kirk, who is a constitutional lawyer. She was able to make some of the more interesting points about the constitutional aspects of this potential change, if it were to be effected. I was also interested in what Senator Nettle said. She too is entitled to her view. It is just that I completely disagree with it. Her opposition to the war in Iraq is so overpowering that it allows her to become an apologist for evil. I think she should contemplate that for a little bit and think about what has happened in Iraq since the coalition of the willing changed the regime.

There are a lot of problems in Iraq and a great need for goodwill in the future, but I think the prospects for Iraq and the region have been much improved by what has happened, particularly with the recent election, where 60 per cent of Iraqis—many of whom had never had the chance to vote before—voted. I understand about 8.5 million Iraqis voted. It was not a case of them voting with their feet; they voted because they had a chance to help steer the course of their nation. It was an opportunity for them that we should be very proud to have played a part in, and we should hope and pray for their future, because it is very important to our security and to the security of their region.

This legislation comprises a degree of opportunism and flies in the face of the principle that governments are elected to govern, are held accountable in a whole range of ways—by the media, by question time and in many other ways; by Senate committees,
apart from anything else—and can be and are removed by the Australian electors.

I think that Senator Ferguson made a very good point with respect to this legislation introduced by Senator Bartlett: the Democrats did oppose the war in Iraq, and many Australians were perhaps a little concerned about Australia’s involvement. But at the end of the day they believed that the Australian government, and the Prime Minister, had made the decision in goodwill and for the right reasons. They may not have agreed with every aspect of the decision, but when it came to vote they believed that their security would be much greater with the return of the coalition government. And we saw the Democrat vote plummet. There is a whole range of reasons why the Democrat vote plummeted, but if you lose credibility with the Australian electors—which, unfortunately, they did—then I have to say that their decision to oppose the war in Iraq was one of the reasons that people made up their mind in that way, and I suspect they will do so in the same way with the Greens.

Government decisions are taken by the executive of that government. That is a constitutional reality and it is certainly so in the case of defence issues. This legislation goes to the core aspects of our Constitution and government. I will say a little bit about the present constitutional arrangements for the deployment of Australian Defence Force personnel. The deployment of Australian Defence Force personnel is a matter of discretion for the executive government of Australia, as provided by the powers vested in it by the Commonwealth of Australia Constitution Act 1900, which we know as the Constitution. The control of Australia’s military forces is vested in the executive arm of government rather than in the parliament. Both the judiciary and the parliament in Australia have long recognised that the conduct of defence and national security operations is appropriately the role of the executive government.

I am sure the present Leader of the Opposition would agree with that, as a former defence minister. Certainly, former Prime Minister Hawke and our current Prime Minister, Mr Howard, have said that the decision to deploy Australian troops overseas—young men and women of Australia—is probably the most onerous task and the most sleep-depriving responsibility that they have. I can remember former Prime Minister Hawke saying that, and I have certainly heard the present Prime Minister of Australia say that. It is not a decision he takes lightly; I am sure it is not. Nevertheless, cabinet is responsible to the parliament; therefore the government will ultimately have to answer to the parliament and the people for the decisions made in such circumstances—and, as I say, we do answer and we have answered in respect of the decision to deploy to Iraq. Section 68 of the Constitution states:

The command in chief of the naval and military forces of the Commonwealth is vested in the Governor-General as the Queen’s representative.

By constitutional convention, however, the Governor-General acts on the advice of government ministers. The government has certain executive powers in relation to defence deriving from section 61, rather than section 68, of the Constitution. Declarations of war and the making of peace are exercises of Commonwealth executive power. Such declarations are not required to be authorised by an act of parliament. The power to deploy Australian military personnel and units is vested in the executive government by virtue of section 61 of the Constitution, which provides:

The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen’s representative, and extends to the execution and maintenance of
this Constitution, and of the laws of the Commonwealth.

Parliament has an express power provided by section 51(vi) of the Constitution to legislate in relation to defence matters. Section 51(vi) is about that defence power and reads:

51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:

... … … …

(vi) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth …

In recent times, the government has drawn on this executive power in concert with other Commonwealth powers under the Constitution as reflected by specific laws to enable the ADF to undertake a range of activities. Examples of these activities are: border protection activities in offshore maritime zones; fisheries protection and enforcement activities in offshore maritime zones; support of civilian authorities, such as with the security aspects relating to the Sydney Olympics in 2000; and the deployment of military forces to areas of operations overseas, particularly East Timor, Afghanistan, Iraq and of course the Solomon Islands. Senator Hogg made the point that so many of these deployments now have a humanitarian aspect and nature. Again, the decisions have to be made quickly and that is why this legislation is so impractical.

The doctrines of responsible government and the separation of powers which underpin Australia’s constitutional system provide a framework within which the parliament, the executive government and the judiciary perform different although not completely discrete functions. It has long been recognised by both parliament and the judiciary that it is the executive government which has a discretion in relation to the deployment of the ADF. As a matter of practice, however, parliament is always kept informed of such decisions. After we made the decision to deploy to Iraq, that decision was agreed to by resolution of both the House of Representatives and the Senate.

No decision is taken lightly, and relevant agencies and ministers are fully involved. Current parliamentary processes always allow for debate on decisions which have been made on the commitment of ADF forces to overseas operations. Ultimately, however, as I said, it is the government’s decision whether to commit Australian forces to operations overseas. The current manner in which the ADF is committed to operations overseas preserves the ability of the Australian government to respond to emerging threats quickly and decisively. The process, which I fully support, has served Australia well in the past and continues to do so. In the current threat environment, maintenance of such flexibility is essential.

The decision with regard to East Timor in November 1999 evolved very quickly. It was right and proper. The government acted in a very expeditious way. I will give another example. With regard to the response to Bali in October 2002, the bomb went off in Bali at around 11 o’clock Australian time on the Sunday night. I remember it because I had just got to Canberra. I turned on the late news and I heard it, which probably would have put it at about half past nine Bali time. The response of the Australian Defence Force was absolutely remarkable. Before dawn on the Monday morning, maybe six or eight hours later, the first C130 medivac aircraft was on its way to Bali. Before close of business—not on the Monday but on the Tuesday—every injured person that had to be removed from Bali to an Australian hospital had been removed. That was a decision taken by the government and responded to
magnificently by the Australian defence forces.

I refer also to what occurred just before Christmas, when Adam Dunning, one of our AFP officers, was gunned down in the Solomons. Within 18 hours, a company of troops from Townsville, on Christmas Eve, were on the ground doing the job in the Solomons. That would not have been possible if we had the problems involved in this legislation. They are remarkable responses and they are possible not only because the government has the power to act in the defence of the nation but also because we have very good defence forces.

I will mention the original Gulf War as well because in some cases the specific details of deployments might be classified for operational security reasons, limiting the usefulness of public debate. That may not be a welcome argument for those people who oppose deployments, oppose a particular military action or oppose a particular war for political reasons. The decision to go to the original Gulf War in 1991 was taken by the Hawke Labor government. We supported that decision. Our decision to go to Iraq in the second Gulf War was a decision that some sections of the Labor Party found very hard to accept but they supported it because they believed that, once the decision was made, it was in Australia’s interests to support that decision 100 per cent. We took a decision to go to Afghanistan after September 11 in support of the American desire to cleanse Afghanistan of elements of al-Qaeda and the Taliban, which had made the opportunities to mount the September 11 attack. We are very proud that we were able to assist the Americans in that way.

This bill proposes that in an emergency the Governor-General may require Defence Force personnel to serve outside Australia’s territorial limits, provided that the government obtain parliamentary approval within two days. This proposal would place the Governor-General in an unacceptable position. It runs counter to the fundamental premises of our constitutional system of government. Does the Governor-General act on the advice of the executive government or does he have to take counsel from the opposition, the minor parties and whatever Independents may wish to participate in the decision-making process? It would put him in an extraordinarily difficult position. It would place him in an impossible situation and it would thoroughly politicise the office.

This proposal is a recipe for deadlock and confusion, particularly—and I mention Senator Hogg again in this regard—if the government of the day does not control the Senate, which has been the case in recent times. It is not going to be the case after 1 July but one can never be sure when that may change again. It is impractical and dangerous, and it would result in paralysis at the highest level of government at those times when, interestingly enough, we would possibly be in our greatest danger. The executive branch of government is just that. It has been elected by the people to make the hard decisions. It is answerable to the people for those decisions. As I have said, it is fully accountable—in question time, by the media and, of course, at election time.

As we have seen with the recent conflict in Iraq, many members have adopted the position expressed in this bill based on ideological grounds or acquired prejudices. Only the executive government has full access to the available intelligence and to the full range of advice from the Public Service. In contemporary international affairs, overseas deployments are obviously likely to arise at short notice. Do we now cease to participate in peace operations or humanitarian relief operations at short notice? Do we allow aggression to stand because we cannot act,
simply because some members are uncomfortable with the use of the military? That is the point. Some of these people opposite are so anti-military and so anti-involvement that, unfortunately—and I am sorry to have to say this—they become apologists for evil. They must think very carefully about their arguments because that is what happens if you reject commonsense and the practical outcomes regarding people who do use force and need to have force used against them. Governments are elected to govern, and it would be a gross act of irresponsibility to abandon that responsibility.

Senator BARTLETT (Queensland) (5.23 p.m.)—I am not sure I have ever heard such a large collection of straw men and furphies put together to misrepresent what the Defence Amendment (Parliamentary approval for Australian involvement in overseas conflicts) Bill 2003 [2004] is about and what is contained in it to then be used as excuses for opposing it. Basically, a lot of it boils down to the fact that, historically, both Labor and Liberal governments have had this power to themselves and—as is not surprising—they want to keep it. The fact is that this legislation, if it came into operation, would not have stopped us deploying troops to Bali as quickly as the government wished to. It would not have stopped our involvement in Afghanistan, because that was supported by the Senate. It would not have stopped plenty of other deployments of troops. I am surprised they did not get around to using the furphy that it may stop defence personnel leaving the country for holidays or something. It does not do any of those things. This bill simply says that, if Australia is going to send our men and women to engage in a war overseas, it should get the support of both houses of parliament before doing so. That is all it says, so let us focus the debate on what it is about.

I think it is worth mentioning that this proposal has been around in a large range of forms since 1981, when it was first moved by former Democrat senator Colin Mason. It is certainly not a knee-jerk response to concerns about the government’s decision to send troops as part of the invasion of Iraq. It has been made more urgent and important because of that decision, as that was the first and only time so far that an Australian Prime Minister decided to send Australian troops to engage in a war without the support of the parliament. That had never happened, and I think most people assumed that it was not likely to happen, so it was a bit of an academic debate.

Contrary to what I think Senator Sandy Macdonald suggested, the deployment of Australian troops to Iraq was not supported by the Senate or the Labor Party. What did happen was that, once the deployment was made, not just the Labor Party but the Democrats as well supported our troops in their task. The decision about whether or not we should go to war is very different from supporting those troops in their task once the decision to deploy them is made, regardless of whether that was made through a good or a bad process. That is what both the Democrats and the Labor Party did. I think that we should all note that, despite what was a very strong debate with a lot of strongly held views, that debate managed to be conducted in a way that did not result in members of our defence forces coming under widespread attack from people in the Australian community, as sadly happened in the case of the Vietnam conflict. I think we all learned a lesson from that situation.

People who sign up to the defence force do so because they are willing to defend their country through the military. That is a significant decision to make, and they should be supported in that very important role regardless of whether or not we support the deci-
sion of the government, which, at the end of
the day and through whatever process, has to
make the decision about what the military
does. This bill simply requires the govern-
ment to get the approval of the parliament
before it does engage troops in overseas con-
flict. That is not that big a deal. As Senator
Allison pointed out, plenty of countries do
have such a requirement, and they seem to
manage okay. Opponents of this bill argue
that Australia would not be capable of doing
it, that the world would fall apart and that all
these practical problems would prevent any-
thing ever happening. I think they very sadly
underestimate the strength of Australian de-
mocracy and the Australian parliament. That
was part of what came through in some of
the contributions to this debate.

I invite Senator Ferguson in particular to
step back and have another look at his con-
tribution. The bottom line of what he said is
that we have a democracy, people vote every
three years and, if they do not like what the
government did, they can throw them out.
People do not just vote in a government; they
vote in a parliament and, unless you suggest
that the parliament should basically sit back
and rubberstamp everything it does, that par-
liament needs to be a check and a balance on
the decisions of the government. That is a
fundamental part of our system of demo-
cracy. Is Senator Ferguson saying that we
should abolish the parliament? Quite frankly,
that argument holds no weight at all. I hope it
is not a sign of things to come when this
government gets control of the Senate come
July. I hope it does not act with even more
disdain for the parliament.

Senator Ferguson also said that this is the
sort of bill you get from minor party senators
because they are never going to know what it
is like to be in government. He is probably
right there; we are not likely to know what it
is like to be in cabinet. He said that we will
never know what the reality of cabinet de-
bates is. As I said, this proposal was put for-
ward in 1981, first by Colin Mason and then
by Senator Don Chipp, who was not only in
cabinet but also a minister with responsibil-
ity for one of the defence portfolios. I think
he was Minister for the Navy in the 1960s,
around the time of the Vietnam War. He sub-
sequently acknowledged his error in support-
ning that war as part of the government at the
time. So it has certainly been put forward in
this chamber by someone who has not only
been in cabinet and, therefore, knows what it
is like but who has been a minister in a de-
fence portfolio in cabinet.

I suggest to Senator Ferguson—and I am
not saying this by way of following the lead
of some of his colleagues and engaging in
gratuitous attacks and slurs on other sena-
tors—that he is not likely to know what it
is like in cabinet either. I think he devalues the
role of senators who are not in cabinet by
making arguments like that. He is a good
example of somebody who is not a minister
and presumably is not likely to ever be a
minister but who performs a very valuable
role as a senator in this chamber. He is a
government senator in this case, and I think
he has been an opposition senator in the past.
To say that because you are not going to be
in cabinet your proposed legislation therefore
has no validity is actually, probably unwit-
tingly but nonetheless unfairly, criticizing not
just people like me but indeed people like
Senator Ferguson himself. It is a silly argu-
ment that tries to distract attention from the
substance of the issue.

The simple fact is that there are few things
more serious than sending Australian men
and women to war. I repeat the fact that, for
the first time in our nation’s history, we have
a Prime Minister who committed Australian
troops to a war despite the opposition of one
of the houses of parliament. That to me says
that, while it is a system that may have
worked well up until now, it has its prob-
lems. It is particularly problematic because, as is no secret, it is not beyond the realms of possibility that some conflict of a similar nature may arise again in the not-too-distant future. I am sure we all hope it does not, but there is continual talk around the globe of the possibility of further active acts of aggression against countries such as Iran. I want to make sure that the same thing cannot happen again. It is one thing to make a mistake, as clearly happened with the decision to go to war based on information that was clearly not correct, but to do nothing about that mistake, to not even acknowledge it and to leave us open to doing it again moves beyond folly and becomes dangerous neglect.

This bill creates a simple mechanism to provide the check that would require the government to make to the parliament the case for sending Australian men and women in the Defence Force to put their lives on the line. To suggest that the parliament should have no role in such a fundamental decision is an approach that does not recognise the fundamental importance of the parliament. It is not surprising that the government of the day wants to devalue the role of parliament—whoever is in government likes to devalue the role of parliament so they can have all the power for themselves—but I think that, in matters of sending Australian men and women to war, some things are more important than keeping power for yourself: ensuring that the decision is at least required to be scrutinised and accepted by the parliament.

All the furphies that this mechanism might lead to a double dissolution are nonsensical. It is clearly not the case, based on what is in the legislation. In many ways I think that what we see here is a number of different debates being run alongside the core aspects of this legislation. We have had a debate running about the role of the parliament versus the right of the government to do what it likes once it is elected. But the bottom line is that, on something as fundamental as this, there are no practical problems that cannot be overcome to prevent this sort of measure from being put into place. The precedent we now have of a Prime Minister willing not only to engage Australian troops in a war but to be part of instigating a war by invading another country which was no threat to us makes it all the more important that we at least require the case to be put to parliament to get its support.

I note again, for the record—because I notice, even from some of the other contributions, that the distinction is fudged—that opposing the decision to go to war is not the same as opposing the troops. Indeed, it is not the same as having a position, once the war has started, of wanting to reverse and bring the troops back. I do not think I have ever heard a government speaker acknowledge the fact that the Democrats consistently said, once the war had started, that our troops should stay there and that we had a legal obligation under international law, as well as a moral obligation, to help restore the country. I think it is a great sign that some form of elections have been held in Iraq. There are clearly still major problems there and it would be silly to ignore those, but it would also be silly to ignore the fact that, in the face of a lot of difficulties, some form of election has happened—with great success in some parts of the country. Particularly for the Kurdish people in the Kurdistan area in Iraq, there are some real opportunities.

Despite having very strongly opposed the decision to invade Iraq, on grounds that I believe have been proven correct, I hope very strongly that the attempts to build a democracy in Iraq succeed. I think the price has already been too high. The price of 100,000 lives—and double that number of lives or
more beyond that permanently damaged in
the most awful way—is a price that I think is
too high to pay, particularly without other
avenues being explored. But the fact is that
the price has been paid already, and the task
of all us, whether we supported or opposed
the war, is to do what we can to try to get the
situation in that region moving to a better
state, with more stability and a brighter fu-
ture for the people in that region.

We have always said, and I have always
said, that our troops should stay there to help
rebuild. Now that the first election has hap-
penned—which is part of moving on to the
next stage—sending clear signals that it is
time to withdraw personnel involved in those
sorts of activities is the way to go. That is a
separate debate to what is contained in this
bill, but those matters have been raised by
others during this debate and I think it is ap-
propriate to put them on the record in this
context.

I do not believe the invasion should have
happened. I think the damage has been
enormous. I think the risks are still very high
that things are going to go further downhill,
but it would be stupid and churlish and the
most extreme example of cutting off your
nose to spite your face that I could think of if
you did not hope for but do everything
possible to encourage the best possible
result in Iraq and the region.

Coming back to the specifics of this bill, I
think one aspect of doing something to en-
courage the best prospects for a good result
in the region is to ensure that we have pro-
tection here in Australia in legislation to en-
sure that a future government or this current
government cannot again engage Australia in
an aggressive action against a country in that
region or anywhere else without at least
making its case successfully to both houses
of parliament—some sort of protection
against those decisions, some sort of obliga-
tion to wait on the evidence being used to
justify the decision to be tested in some way.
That can be done in a way that does not pre-
vent necessary actions happening promptly.

On the Sunday program on 1 December
2002—before the Iraq deployment—the
Prime Minister himself, when asked, ‘If the
war starts can you recall the parliament?’
said, ‘There is always the capacity to recall
parliament if you have to.’ He did say that if
he was going to send troops he would allow
parliamentary debate. There was a debate but
with no impact on the decision. The decision
had already been made and, of course, as
senators know, this Senate did not support
that decision. Parliament can be recalled
quickly. We were recalled quickly for visits
by overseas heads of state.

I do not think any potential difficulties or
hypotheticals should be used as a straw man
to shoot down the substance and the core
principle of this bill. The bottom line is that
it is a simple principle: we should not send
our troops to war unless both houses of par-
liament agree. People can argue against that
and they may wish to, but I do not think it
helps to just put a whole lot of incorrect as-
sertions into the bill that are not there. Mak-
ing the case on the substance of that core
principle is the best way to go forward.

Can I finally say that, given the length of
time this legislation has been around—it was
first introduced back in 1981, which I think
was the last time that the coalition had con-
trol of both houses of parliament, and the
situation changed not long after that—some
things never change; some things come back
to haunt you again. We need to look at the
things that have changed in that period of
time. One of the things that has definitely
changed is that we now have a precedent of a
government willing to go to war without the
support of both houses of parliament. That
had not happened before and I, for one,
Senator PAYNE (New South Wales) (5.41 p.m.)—I am pleased to have the opportunity to participate in this discussion in general business this afternoon in relation to the proposed amendment of the Defence Act 1903 to repeal section 50(c) and substitute that with a new section as suggested by the Australian Democrats—by Senator Bartlett and Senator Stott Despoja specifically.

The Defence Amendment (Parliamentary approval for Australian involvement in overseas conflicts) Bill 2003 [2004], as has been discussed already today, relates to the provision for parliamentary approval of overseas service by members of the Defence Force. I have had the opportunity during the afternoon to listen to some of the contributions by other senators. As Senator Bartlett just alluded to in his concluding remarks, the bill arose some time ago now. It pertained to the conflict in Iraq, so it has been around for well in excess of 18 months now. I think it is important to acknowledge that, in the deployment of Australian troops to Iraq in the first instance, the parliament and many of the senators in this place, as well as the members in the other chamber, did have an opportunity to participate in a parliamentary debate on that matter. I note as an aside that it was held at the time of the New South Wales general election and some of the members in the other place chose to campaign for independent candidates in state seats rather than perform their federal parliamentary responsibilities in their own chamber in the House of Representatives. They now make a great deal of noise about other matters in an inquiry that is happening simultaneously with the Senate sitting this afternoon. It is an interesting question of the priorities of some of those members of the House.

In terms of the simple principle that Senator Bartlett says is presented by this bill, he contends, and the bill in fact suggests, that what should be required in this process is for both houses of parliament to agree on the deployment of Australian Defence Force troops in overseas conflicts. What I did not hear Senator Bartlett say—and it may be that I was not in the chamber at the time—was what, now that we come to the situation post 30 June when the government will have control of both chambers of this parliament, is the next suggestion that will come forward from those who think this is a good idea. What is the suggested extent of engagement that the parliament should have in providing approval or otherwise? It is for those and other reasons that I and other members of the government are unable to support this bill.

For example, in our involvement in Afghanistan—and, along with other colleagues, I had the honour of visiting those participating in that action in a number of locations in the Middle East in 2002—predeployment, as senators will remember, was pivotal to the effectiveness of our engagement there. When push comes to shove on this particular proposal, would there then be a suggestion that the parliament should be engaged in deciding how predeployment should be taken up? Where is the line actually drawn? That is not clear to me from either the bill or the debate today.

As I heard Senator Hogg allude to earlier in the afternoon, the importance of the rules of engagement as adopted by the Australian Defence Force in all their activities such as those under discussion today are absolutely fundamental. I had the honour and the opportunity in Bishkek, Kyrgyzstan, I specifically recall, of discussing with legal professionals in the Australian Defence Force their work on the rules of engagement for the particular activities of the RAAF at that time, in air-to-air refuelling and other things. I know what
level of importance, what priority and what seriousness is placed on these matters. Is it suggested also that there might be parliamentary involvement in that process? I have a greater regard and respect for the Australian Defence Force doing those things with professionals, expertise and a regard for operational security than to even contemplate that that should be part of the processes of the parliament.

If we look at the current approval procedures for the commitment of the ADF to international operations, what underpins our constitutional system? Hopefully, as members of this chamber, we are all aware that it is the doctrines of responsible government and the separation of powers which provide the framework within which the parliament, the executive government and the judiciary perform their functions—different but perhaps not completely separate and discrete functions.

Both the parliament and the judiciary, in particular, have long recognised that it is the executive government which in fact has discretion in relation to the deployment of the ADF. Of course, as a matter of practice parliament is kept informed of those sorts of decisions. It may be informed in a number of ways. It may be the sort of debate which accompanied this particular deployment in relation to Iraq that I alluded to earlier. It may be the sort of monitoring—and I am sure some of the officers questioned relentlessly at the time would regard it as a forensic examination—that takes place through the Senate estimates process, which occurs simultaneously with our deployments wherever and whenever they are being held. We know that the march of estimates is itself relentless and provides the opportunity for senators to participate very specifically and actively in the questioning process in relation to overseas deployments and the role of the ADF. It is part of informing and keeping the parliament informed of our decisions.

It is also important to emphasise that decisions to deploy troops into an area of conflict are not decisions that would ever be taken lightly. I remember engaging on this point with significant numbers of constituents in relation to Iraq, in particular, and some making the suggestion that this was a glib decision of government. I absolutely reject that contention if it is being made now, as I have done when it has been made in the past and will do again if it is made in the future. These are very important decisions and they are not taken lightly. All of the agencies and the ministers which are relevant to the decision-making process, whether in relation to the National Security Committee or other portfolio areas, are fully involved in that process. As I said earlier in my remarks, the current parliamentary processes do allow for debate on these decisions—and many members of this chamber have participated in those discussions—but it is the government’s view and mine that, ultimately, it should be the decision of executive government whether to commit Australian forces on operations overseas.

The operational considerations that need to be borne in mind can also impact quite seriously on the possible imposition of parliamentary approval processes for the commitment of Australian forces internationally. In the current arrangement we have an ability for the government to respond to emerging threats both quickly and decisively. That is an approach which has served Australia well in the past, and indeed continues to do so. We are all aware that in the last, say, four to five years the current threat environment has changed comprehensively, not just in this region but internationally. We are acutely aware of the tragedies in a number of places which have led to changes in that threat environment.
It is essential that a government is able to maintain the flexibility to deal with its armed forces in the way the armed forces and the government see as appropriate and is not subject to the sorts of issues I raised earlier: the extent, for example, of how much a parliament—this parliament—wants to be involved in things like predeployment and rules of engagement. It is not outside the realms of possibility—in fact, I am sure it is closer to the norm than otherwise—that the specific details of deployments may indeed be classified for operational security reasons.

I know also from experience in the Senate estimates process, a very public process of this chamber, that when matters are classified for operational reasons it is a source of some frustration sometimes to senators participating in that process, but it is very important to ensure the safety and effectiveness and, ultimately, success of our activities that that is the case. When you try to bring this procedure onto the floor of the parliament, what happens to those issues? What happens to questions about security classifications and the operational impact of the debate occurring within, for example, this chamber?

If we look at the bill, its propositions include the fact that, in an emergency, the role of the Governor-General would be that the Governor-General may require Defence Force personnel to declare by proclamation that an emergency exists which requires service beyond the territorial limits of Australia of members of the Defence Force and such service may be required in accordance with that proclamation. So it is a proclamation for the Governor-General.

It goes on to say, in clause 50C(4):

If the Parliament is not in session when a proclamation under subsection (3)—
the preceding subsection—is made, it shall be summoned to meet within 2 days after the making of the proclamation.

It goes on to make other procedural arrangements. It is interesting to contemplate what sort of position the Governor-General would find themself in in that circumstance. Would it be in accord with the premises of our constitutional system of government? The bill does not indicate to us whether it is suggested that the Governor-General is acting on the advice of executive government or whether the Governor-General has to take counsel from other parliamentary representatives—for example, from the opposition or minor parties and whatever Independents might wish to participate in that decision making. I go back to the question of what level of involvement it is envisaged the parliament would have. It is not clear to me from this bill, and I do not think it provides us with sufficient clarity to form those views and support it.

There is also a very valid argument that putting the Governor-General in a position of that nature—and all of the speakers this afternoon to differing degrees have indicated that these are very contentious and important decisions, no matter when and by whom they are made—could have a very deleterious effect in terms of politicising the office. This is an issue on which Senator Bartlett, for example, and I might meet in the middle in broad small 'r' republican terms, but in the nature of this debate and this discussion I think that is something we have to bear in mind very seriously. In my view the process, because of the lack of clarity in this proposal, would only be a confusing one and ultimately may well result in a situation of deadlock.

It is entirely possible that the moment that the process needed to be invoked—if the act were amended—would be a time of great danger for our nation. I think it is unacceptable to suggest that our decision-making processes should be paralysed and put at peril in such a way. At the end of the day—a
phrase I prefer not to use; if Don Watson could hear me now he would probably be absolutely devastated by that—the executive branch of government is just that: the executive branch of government. It is elected by the people to make hard decisions. That is what it does. It is answerable to the people for those decisions. What answer did the people give this government in 2004 in relation to the exact example upon which this bill is based? The answer was to re-elect the government with an increased majority. Let us place that on the record for consideration.

I was interested in some of Senator Allison’s observations at the beginning of the debate this afternoon. Given that this has some constitutional overtones, much in the way that opponents of constitutional change list 20, or as many they can possibly find, obscure republics which they believe to be dysfunctional as proof of their point that Australia should not make any change to its constitutional arrangements, I found Senator Allison providing the chamber with a list of countries which apparently were regarded in a negative fashion because they also did not require parliamentary approval for military deployment abroad.

Not usually joining in such an approach to debate, I thought that in the spirit of this afternoon’s discussion I might and I had a quick look at what the country members of NATO do in relation to parliamentary approval for military deployment abroad. I will leave it to those listening and those reading to decide whether these countries fall into the category of obscure republics that you cannot trust. Countries like Belgium, Canada, Denmark and France do not require any parliamentary approval for the deployment of military operations abroad.

Senator McGauran—The French don’t go anywhere anyway.

Senator PAYNE—Not wishing to invite a diplomatic incident, I will leave that where it lies. In Greece, Iceland, Italy, Poland, Portugal, Spain and the United Kingdom, no parliamentary approval is required. The list goes on in more detail, if the Senate is gasping for it. The point I am trying to make is that different parliamentary systems, different parliamentary chambers, make different arrangements.

In a very short period of time, on approximately 30 June, the government will find itself enjoying a majority in both houses of this parliament. That means that Senator Bartlett’s wish for the approval of two chambers before any military deployment on an international basis is made will be granted, but I am sure not in the manner in which Senator Bartlett has suggested in his bill. In practical terms, where does this actually take us right here and right now? My suggestion is that it does not take us very far.

Finally, in the last couple of minutes remaining to me, I want to briefly make a reference to Iraq post conflict. There are many views around this nation and internationally on whether the war was right or wrong. But let us talk about the post conflict election for a moment. There was a 72 per cent turnout, which puts the US election results in November of 2004 of 60.7 per cent to shame.

Senator Patterson—They weren’t at risk.

Senator PAYNE—That 60.7 per cent was the highest since 1968, and I note the result of that election as well. As Senator Patterson says, the citizens in that context were not at risk in the same way. The international engagement in the election process is also extremely important. In terms of the activities of the previous regime in Iraq, there was a report, in just one example, of 263 mass graves estimated to contain the remains of some 300,000 men, women and children. Hopefully, following democratic elections...
and support for reconstruction, Iraq will face its future positively. *(Time expired)*

The ACTING DEPUTY PRESIDENT (Senator Knowles)—As there are only 30 seconds left, do you wish to commence your contribution, Senator Bishop?

Senator MARK BISHOP (Western Australia) *(5.59 p.m.)*—I will just say a few words in the odd few seconds that are remaining to me. I think it is clear at the outset that this bill seeks to insert parliamentary power into the process whereby Australia commits troops overseas. One asks the very basic question at the outset: what does that mean?

Progress reported.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Knowles)—Order! It being 6 p.m., the Senate will proceed to the consideration of government documents.

Great Barrier Reef Marine Park Authority

Debate resumed from 9 December 2004, on motion by Senator Buckland:

That the Senate take note of the document.

Senator BARTLETT (Queensland) *(6.01 p.m.)*—I would like to speak to the report of the Great Barrier Reef Marine Park Authority, as it is of particular interest to me as a senator for Queensland. As I am sure honourable senators would be aware, because they always follow all my speeches with great interest, this is something that I speak on quite often in this chamber. It is one of the natural wonders of the world, and it is an area of immense economic as well as environmental value to Australia, to Queensland, and to central and northern Queensland in particular.

In the last year we have seen a very dramatic increase in the areas of the Barrier Reef Marine Park that are protected. In my continuing habit of trying to ensure that I praise the government wherever they deserve praise, this is without doubt the most significant positive environmental action of this government in the last term. Whatever else you can say about the threats to the Barrier Reef and the surrounding marine park—and other areas where this government has fallen short—there is no doubt that to increase the no-take zone from around five per cent to 33 per cent is a very significant step forward. It is not the start and finish of things that need to be done for protection, but it is a major step forward, and it is one that was done over quite a long period of time. It is a process that I supported publicly and continually over many years, despite opposition from some sections in the community—particularly the commercial fishing industry—because I believed it was strongly in the interests of Queensland to support it, whatever colour the government was that was putting it forward.

Given all the arguments and angst over Tasmanian forest policy, and the massive electoral damage that the Labor Party felt for the approach they took on Tasmanian forests—not the policy content but the messages they sent—it is interesting to contrast that with the successful moves forward with Barrier Reef Marine Park protection and also contrast the process that was followed. I think that is one of the reasons why we have had such success. In acknowledging that, I again say that there is plenty more to go, but you cannot increase from five per cent to 33 per cent protected area zones and say that is not a good thing.

I should emphasise that the biggest failure of this government environmentally has been its total lack of proper action in the area of climate change. If nothing is done to address that globally, you can make the marine park 100 per cent no-take zone and you will probably still have it being destroyed...
through climate change, coral bleaching and the like. There are still plenty of failures that are risking the very survival of the Barrier Reef because of this government’s inaction. We need further funding to protect those green zones and to police them. It is one thing to say these are no-take zones and they are protected; it is another thing to ensure that legislated protection is enforced—not just by lots of extra policing, I might say, but also by community education. This report shows that there have been some extra resources put in that area. I would like to encourage the government to do more in that regard. There are still some important areas that remain without adequate protection. Those include Princess Charlotte Bay, where seagrasses provide vital pastures for turtles such as loggerheads and green turtles—as I spoke about in this place last night; the ribbon reefs in the far north; the inshore reef areas near Port Douglas; and some of the areas around Hinchinbrook Island. These areas all need further protection.

I am aware there are some concerns surrounding the extension of long-term permits for tourism operators to periods of up to 20 years instead of an annual or biannual basis as occurred previously. I am a strong supporter of the tourism industry, but we do need to make sure that large-scale tourism operators are properly policed. There is still a lot that needs to be done with water quality, run-off into the reef, particularly the inshore areas, and better protection of the wetlands and lowlands of Far North Queensland is also desperately needed.

It is hard to know precisely what the costs would be to ensure the full protection of some of those lowlands. There have been positive moves in that direction in the Daintree lowlands, for example, and they still need to be locked in place. But whatever the cost is, whether it is $10 million or $20 million, it is a pittance compared with the economic gain to the region from ensuring that these environmental assets are protected for future generations. I seek leave to continue my remarks later. (Time expired)

Leave granted; debate adjourned.

Refugee Review Tribunal
Debate resumed from 8 February, on motion by Senator Bartlett:
That the Senate take note of the document.

Senator BARTLETT (Queensland) (6.07 p.m.)—The annual report of the Refugee Review Tribunal was tabled in this chamber earlier in the week. A very large number of reports are tabled in this place, as is appropriate and desirable. It is part of the parliamentary accountability process. We examine some of them at least through Senate committee processes but it is important to make sure that they do not just become another bunch of paper amongst the mountains of paper that get shuffled through this place without some acknowledgment of their contents.

The Refugee Review Tribunal deals with the issue of refugee claims, which is something subject to a lot of public controversy. The tribunal’s report gives some interesting statistics. The number of cases finalised in that last financial year was 5,800. That is a lot of cases. All of those were cases where people were appealing a determination by the department of a refugee claim. All of those decisions are potentially life and death issues. That is a very onerous responsibility. Whilst we can never achieve perfection, if there is ever an area where we want to get as close to it as possible, it is decision making in this particular area.

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I note a few particular components of this report. There is an area on people who are now called ‘further protection visa holders’, which is people who have already got a temporary protection visa. They were found to
be refugees three or more years ago. Unfortunately, under the laws that have now been in place for a few years, at the end of that time people have to go back and do it all again. Last financial year the tribunal received 754 applications in relation to the refusal of further protection visas. I presume that is a subset of the number I quoted just before. The majority of them—almost all of them—were from Afghanistan. That is 754 applications and considerations and decisions about people’s refugee status that had already been made three or four years ago.

If there was ever a perfect example of the self-inflicted inefficiency of the process the government insists upon, it is that—to make people go all the way through it again, get their determination and then appeal if they are not successful. The next sentence in the report says it all: 390 of those cases were finalised—so close to half of them were not finalised by the end of the financial year—and 354 were set aside. I cannot do the maths quickly enough to work out the percentage, but it is very high. According to the report, that is in many cases because more recent country information has come in. It is the overturning or setting aside of 354 decisions that should not have had to have been made in the first place. People should not have had to prove all over again that they are refugees. Think of the extra stress involved for those people: three years or more of living with the uncertainty of what might happen, of being knocked back and living with the fear of being sent back to a place they knew was not safe, having to appeal to the tribunal and live with that uncertainty and then to finally get a successful determination and, I presume, the visa. There is all that trauma for them, all that expense for the taxpayer and all of that inability for them to fully contribute to the Australian community. For what? Certainly, for no positive gain that I can see.

I also note the percentage of court decisions that were sent back to the tribunal. Seven per cent of court decisions made about tribunal decisions were sent back to be considered again. That might not sound a lot but these are all court decisions that the government has tried everything possible to stop. It has tried every way possible to stop people being able to appeal to the courts. It has made the grounds of appeal as narrow as possible, and still seven per cent get through. As I said before, when every one of these is potentially a life and death decision, to have seven per cent of them sent back from the courts—even with the extraordinarily narrow grounds that the courts are allowed to use—is a very worrying statistic. It shows that there is another side beneath the rhetoric the government uses about people clogging up the courts with unmeritorious claims that does not match the reality. It is an area where I believe there needs to be much greater public awareness and understanding. I seek leave to continue my remarks later. (Time expired)

Leave granted; debate adjourned.

**Auditor-General’s Reports**

**Report No. 19 of 2004-05**

**Senator WATSON** (Tasmania) (6.14 p.m.)—I move:

That the Senate take note of the document.

In 1993 the Joint Committee of Public Accounts considered the tax office’s administration of the Income Tax Assessment Act 1936. The committee highlighted concerns in relation to an imbalance of power between the tax office and taxpayers. To redress this imbalance, the committee recommended that the tax office adopt the Taxpayers’ Charter, and the government supported the recommendation.

The Taxpayers’ Charter was introduced in July 1997. It sets out the manner in which the tax office must conduct itself in its dealings with taxpayers. Its aim is to establish a
relationship between the ATO and the public based on mutual trust and respect. The charter was designed to assist taxpayers to understand their rights and obligations. It also describes the tax office’s service standards, and complaint handling and review procedures. It sets out 13 principles—taxpayers’ rights—and six taxpayers’ obligations.

I am pleased to see that the Taxpayers’ Charter has withstood scrutiny, with the Australian National Audit Office finding overall that the tax office is managing its responsibilities under the charter and that it has shown its commitment to the charter principles at the strategic level. I am also pleased that the tax office has agreed with the Australian National Audit Office’s recommendations and taken them in the constructive way in which they were meant.

As mentioned earlier, the charter was introduced in 1997 and was one of the first service charters introduced by a Commonwealth agency. The Australian tax office response to the report was that since the charter’s introduction it has been concerned with ensuring that its practices reflect the charter’s principles. It stated that its approach is to advise taxpayers of the service they can expect, what is expected of them and what they can do to seek redress, if needed. This goes to the heart of the relationship between the tax office and the Australian community.

The tax office acknowledged that the Australian National Audit Office report recognises the commitment it has to the charter, the work it has done in reviewing and updating it, and the practices it has in place that underpin it. It agreed with the Audit Office’s recommendations, seeing them as suggested improvements to the current practices in relation to the charter. The main aim of the audit was to look at how the tax office carries out its responsibilities under the charter as an important element of its performance. This involved an examination of the ATO’s:

1. systems and processes used to develop, maintain and update the charter;
2. strategic commitment to implementing the principles of the charter;
3. integration of charter principles with its business processes; and
4. monitoring and reporting of its performance against commitments in the charter.

On the downside, the Audit Office found that at the time of the audit the tax office did not have a strategy or a systematic approach to measuring its performance against the charter principles. The measures being used provided limited assurance that practices and procedures complied with charter principles. The Audit Office suggested some additional qualitative measures based on its review of business processes. These additional measures do not require the tax office to introduce new processes to measure the effectiveness of charter principles. They involve the use of existing information and procedures, such as the results of quality assurance processes and complaints, as well as results of external surveys. The tax office advised that it is in the process of formulating a charter measurement strategy with a view to reporting on its charter performance by March 2005—next month.

The Audit Office has identified a number of areas for improvement so that the ATO achieves better performance in meeting its challenge of living the charter. These include explicitly documenting how relevant strategies and measures within its plans relate to the charter principles, which would provide staff with guidance on how the charter principles are embedded in the ATO’s strategic planning processes; developing a corporate management practice statement to provide guidance to tax office staff on how to meet their responsibilities under the charter; developing appropriate protocols and procedures to advise taxpayers of relevant charter rights and obligations as a normal part of
interaction with the tax office; implementing a systematic approach to quality assurance processes to enable the tax office to focus on broader aspects of the ATO’s business processes, including compliance with charter principles; finalising the charter measurement strategy using qualitative measures to provide assurance on the quality of the relationship with taxpayers and the quality of services provided; and examining the material that is available from existing internal reports to develop a framework for regular internal reporting in relation to responsibilities under the charter.

As a member of the Public Accounts Committee at the time that this was recommended, I would also like to acknowledge the valuable work of former senator Brian Gibson in his support for the taxpayer. As I am, I think he will be assured that the charter concept is working well within the tax office. I commend the report to the Senate.

Question agreed to.

**Consideration**

The following orders of the day relating to government documents were considered:


- *Housing Assistance Act 1996*—Report for 2002-03 on the operation of the 1999 Commonwealth-State Housing Agreement [Final]. Motion of Senator Buckland to take note of document called on. On the motion of Senator Bartlett debate was adjourned till Thursday at general business.


- National Oceans Office—Report for 2003-04. Motion of Senator Buckland to take note of document called on. On the motion of Senator Bartlett debate was adjourned till Thursday at general business.

- Sydney Harbour Federation Trust—Report for 2003-04. Motion of Senator Buckland to take note of document called on. On the motion of Senator Bartlett debate was adjourned till Thursday at general business.


The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 16 of 2004-05—Performance audit—Container examination facilities: Australian Customs Service. Motion to take note of document moved by Senator Webber. Debate adjourned till the next day of sitting, Senator Webber in continuation.

Auditor-General—Audit report no. 17 of 2004-05—Performance audit—The administration of the National Action Plan for Salinity and Water Quality: Department of Agriculture, Fisheries and Forestry; Department of the Environment and Heritage. Motion to take note of document moved by Senator Bartlett. Debate adjourned till the next day of sitting, Senator Bartlett in continuation.

Orders of the day nos 3 and 5 to 10 were called on but no motion was moved.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Knowles)—Order! There being no further consideration of committee reports, government responses and Auditor-General’s reports, I propose the question:

That the Senate do now adjourn.

Veterans’ Affairs

Senator MARK BISHOP (Western Australia) (6.20 p.m.)—I rise tonight to speak about a particular matter of commemoration in veterans’ affairs. In particular, I wish to address the commemoration of Australia’s war dead. The matter concerns the fate of Australians who died at Fromelles on the western front in France on 19 July 1916. Their bodies were never recovered. New evidence is now emerging of their exact burial location. It should be said at the outset that the battle at Fromelles was futile, fruitless and incompetently managed. Lasting only 24 hours, this was the first major battle by the 1st Australian Imperial Force in Europe during WWI. It involved a British division and the 5th Australian Division against one German division.

The 5th Division consisted of three brigades: the 8th, formed of men from Queensland, South Australia, Western Australia and Tasmania; the 14th from New South Wales; and the 15th from Victoria. I do not intend to discuss the battle in detail except to say that it lasted from 6 p.m. to 6 a.m. the following morn. It was an overnight battle fraught with difficulties from the outset. The Australian casualties were 1,917 dead, 3,146 wounded and 470 taken prisoner. This represented 50 per cent of the division in the field at that time. The German losses were 501 dead and 943 wounded. During the battle and at its conclusion not a single metre of ground had been gained. The Germans had complete knowledge of the impending attack and indeed they held that position until the war’s end. In the 60th Battalion, which was part of the 15th Brigade, 398 were killed and over 400 were wounded, and that was out of a complement that evening of 900 men.

These losses were the highest from any single action in Australia’s military history, yet it is fair to say that it is a little-known
battle. There were no strategic plans involved in the lead-up to the battle and it was simply intended, according to the historians, to discourage the Germans from moving troops from that sector onto the Somme. Thousands of young Australians were mown down by German machine-gun fire and they were left lying in no-man’s-land—another tragic story of young lives thrown away.

My particular concern is the recovery and burial of all those young Australians who to date remain classified as missing. In 1919, when VC Corner burial ground, as it was then called, was being set up, the remains of 410 men were gathered. They are buried in a mass grave in front of this memorial. None could be identified. Of the 1,917 killed, 1,298 have their names on the screen walls of nearby VC Corner. Those whose names are not recorded there were buried in other cemeteries in the immediate area. When the number of bodies in all cemeteries is added up, 163 are unaccounted for. It is thought that some of these might lie behind German lines. In fact, there are German records which list 160 names of people whom they buried. Obviously, these numbers are quite close.

As the battle was in midsummer, it was a matter of some urgency to remove the bodies from no-man’s-land. Where no-man’s-land was narrow, this was a relatively easy task. The 15th Brigade advanced over a very wide stretch of no-man’s-land and during that evening never breached the German lines at all, so it is suggested that most of the bodies at VC Corner are 15th Brigade men. But large numbers of the 8th and 14th brigades got past the German lines and were killed as they engaged the enemy. These, it is thought, were those buried by the Germans. There is photographic evidence held in the Australian War Memorial that the Germans took these bodies away on a light railway. Contemporary diaries reveal that they were taken to a place known as Pheasant Wood. The existence of that site is corroborated by other evidence as well. This includes contemporary advice provided to relatives searching for loved ones that Pheasant Wood was a German burial site. Other German photos show heaps of Australian bodies awaiting burial beside a farm wall. Such a farm wall at Manlaque Farm has now been identified. Further evidence is from aerial photos taken before and after the battle which indicate the existence of these burial pits.

It should also be mentioned in passing that the Germans behaved with propriety as regards these funerals. Indeed it is appalling that the Australian general in charge of the 5th Division did not take up a German offer of truce, because this would have allowed retrieval and burial of all the dead. Further, the Germans recorded the details of the Australians they buried, and they forwarded these details, together with any effects, to the Red Cross. The Red Cross in turn sent those details to relatives. That is the list containing 160 names. There is then, from that brief recitation, a rather good prima facie case in existence that interred in two mass graves at locations outside the town of Fromelles are 160 Australians killed by the Germans and, in short, they may no longer be missing. However, in answer to questions I have asked of the Office of Australian War Graves, the basis of this evidence is denied. Yet the location of missing war dead is not their responsibility. This rests with the Department of Defence. These burial sites, if verified by further investigation and research, ought to be formally commemorated. That is the point of my speech this evening. Most would agree that seeking to dig up much of northern France and Belgium in search of bones is pointless. Local landowners would properly be horrified.

Despite the promises of then Prime Minister Billy Hughes to find them all, perhaps it
is time to accept that too much time has elapsed. It simply is not practicable, though it is sad that this same philosophy seems to apply to all others missing in action overseas since that time. Some might say that is an attitude of General Haig proportions for its disregard of the value of our soldiers in the trenches, but in this case the evidence is more than circumstantial. In this year of commemoration I believe commitment to examining this case would be highly appropriate. Families of those missing would no doubt also like to know the answers to this question as well. That does not seem to me to be a great deal to ask for. There is now a credible level of evidence as to the existence of mass graves containing Australians.

I believe that the case presented warrants further consideration. Research into the existence of mass graves of Australians at Pheasant Wood and Manlaque Farm should be undertaken with some degree of priority. We are a nation much proud, latterly, of our military heritage and of our commitment to security in and around the world. We make much of veterans’ service through programs of commemoration. Here is a perfect example of something which could be done to solve an important riddle. It is not a matter of exhuming the bodies; it is a matter of research and investigation through modern technology, which would no doubt provide a ready answer. The site could then be marked and properly commemorated. All it needs is some interest and will on the part of the government and a formal approach in turn to the French government. After all, we are repeatedly told the French hold a deep respect for Australia’s efforts in the defence of their homeland. I believe this would be a most admirable project in this commemorative year and I simply ask that the government seriously deliberates on this request. We need to consider what can be done to fill an important gap whereby those 163 young Australians listed as missing in action might be found.

**Maritime Union of Australia: Abalone Industry**

**Senator FERGUSON** (South Australia) (6.30 p.m.)—I do not speak all that often in the adjournment debate, but occasionally issues arise that simply must be told to this chamber and certainly recorded in *Hansard*. Abalone is Australia’s fourth largest wild fishery. Nationally it is worth more than $230 million annually. The abalone industry is worth millions to the South Australian economy in particular and to the regional community of Port Lincoln in the federal electorate of Grey.

Destiny Abalone is the holder of a Primary Industries and Resources South Australia operating licence for the growing of green-lip abalone at sea in southern Spencer Gulf. The company was established in 2001 and exports abalone to Asia. The company uses world-first technology that helped it to produce more than 100 tonnes of abalone for export in its first two years of operation. A company called Destiny Abalone Pty Ltd operates the motor vessel *Destiny Queen*. The *Destiny Queen* is a purpose-built vessel that has recently undergone significant refurbishment. It is owned by a Hong Kong company, Destiny Shipping Ltd; is anchored in the Spencer Gulf, growing green-lip abalone; and is Australia’s only ship based abalone farm.

In late November last year I received a letter from Destiny Abalone that highlighted the deliberate efforts of the Maritime Union of Australia to disrupt the successful operation of this company. The actions of the Maritime Union of Australia are unwarranted and significantly threaten the viability of Destiny Abalone’s operations in South Australia. Prior to the refurbishment of the *Destiny Queen*, Destiny Abalone attempted to
negotiate with the MUA on wages and conditions for employees that were then employed on that vessel. They would not negotiate on a state award to cover their employees. The MUA refused to negotiate, yet still believe their workers should be employed on the Destiny Queen.

The MUA would not allow its workers to receive training to work with abalone as part of the contract negotiations. Destiny Abalone is not an employer within the maritime industry due to its unique operation; it has a stationary ship that conducts a farming enterprise onboard. Due to the MUA’s actions, Destiny Abalone was left with no choice but to accept the Destiny Queen as a charter with crew. The shipowner now employs these crew members. This is in part due to the poor maintenance of the vessel at the hands of the MUA crew and the refusal of the MUA to negotiate to include aquaculture husbandry as part of the worker contract.

The Destiny Queen is now chartered with a complement of Australian and foreign crew members. The vessel’s operations are controlled by five Australians and supported by 20 international crew members, who are prepared to serve in a dual capacity as ship’s crew and abalone husbandry crew. All the crew are internationally qualified. The international crew are able to work with the abalone, and their wages are commensurate with the previous arrangements aboard that vessel.

The MUA are now employing tactics that speak solely of a vendetta against Destiny Abalone. They are spreading misinformation amongst the local media about the operations of Destiny Abalone. They are also taking court action against Destiny Abalone and targeting associated companies. Reports have been received of threats to and intimidation of Destiny Abalone staff and the Destiny Queen’s employees. The union’s connections to the South Australian state government and the behaviour of officers from Transport SA have also been called into question. The company can expect no assistance from the South Australian state government, as we all know how Labor Party state governments across the country treat their union mates.

The MUA has also attempted to intervene in the visa process for the foreign crew of the vessel. Thankfully, the intervention was unsuccessful and visa applications have been obtained—I am not sure of that, but I understand that is the case. Hong Kong would welcome the Destiny Queen, and it would be a shame for South Australia if the actions of the Maritime Union of Australia forced this to happen. Destiny Abalone is a significant contributor to the South Australian regional economy, especially around the Port Lincoln area—that wonderful city on the tip of the Eyre Peninsula with some 14,000 residents which services the whole of the southern area of the peninsula and helps to provide a very sound economy for that area.

The MUA’s actions are directly threatening the viability of Destiny Abalone operating in South Australia. If the MUA force the company’s operations offshore it will have a flow-on effect for the many South Australian businesses providing a diverse range of goods and services, including juvenile stock, to Destiny Abalone. The Maritime Union of Australia’s actions are an abhorrent misuse of their role and position. They are unjustified, vindictive and a threat to the viability of a successful company and all associated businesses.

The MUA’s refusal to negotiate has led to this business decision, and members of the MUA should seriously question whether their union representatives have their best interests at heart—the best interests of the workers in that area and the best interests of all of those businesses who are suppliers to
Destiny Abalone in Port Lincoln—especially when they refused to negotiate from the outset and then wasted funds through malicious legal actions with the sole purpose of destroying a South Australian company. If this is indicative of union activity and what unions intend to do to small businesses that set up successfully in each of our states—in my case, in the state of South Australia—then is it any wonder that the people of Australia will not allow the Labor Party, dominated by unions, to run this country? I think we should make sure that actions such as this one by the Maritime Union of Australia are exposed and that these people running a successful business in South Australia, employing South Australians and associated companies, are allowed to continue their business without interference.

Insurance: Public Liability

Insurance: Medical Indemnity

Senator RIDGEWAY (New South Wales) (6.37 p.m.)—I rise tonight to speak on the issue of the so-called insurance crisis in this country that we have heard about over the past few years and, more particularly, the decision of the High Court handed down in the case of Guy Swain. You might remember him; he was the young man who was tragically injured in a swimming accident at Bondi Beach a number of years ago and, sadly, was left a quadriplegic. The High Court has reinstated his $3.7 million payout, and all of a sudden insurance was on the front pages again.

I think cases like Mr Swain’s were the catalyst for hysterical outcries from the government and insurers about the opening of the so-called floodgates of litigation and the tort law reform that followed. The reality is that there have only ever been a couple of payouts of this size. At the behest of the insurance companies, the government portrays catastrophically injured people as simply swanning around and taking advantage of the system in plague proportions.

The Guy Swain case inspired the raft of reforms introduced by the New South Wales government as its response to the supposedly escalating cost of claims. We had heard from Premier Carr, who led the charge on a wave of reforms that went far beyond federal proposals to deal with the crisis at the time, that it was designed to cure the insurance crisis and to ensure there would be available and affordable public liability and professional indemnity insurance. What we saw were caps on the maximum amount of damages payouts, limits on the amount of legal costs that can be claimed, penalising barristers and solicitors who bring forward unmeritorious claims, removing liability in relation to certain activities or situations, and a range of other things. But the guarantee at the end of the day was that things would be cheaper and organisations right across the country could continue to operate.

By far the most widely held belief is that the rising number and cost of claims is the primary driver behind the cost of insurance. However, rather than implementing solutions that limit the number of claims, the central theme of all of the solutions was limiting the amount that can be claimed in the first instance. Consumer advocates, as well as the Australian Democrats, at the time challenged—and we continue to challenge—that approach, and we await a preventative solution from the government that concentrates on restoring some balance to the current reforms. These regressive reforms have done little more than rip off consumers and have been continually protested and fought against at both the federal and state levels.

We have heard the stories of volunteers being forced out of their organisations, the restrictions on public and recreational activities, and doctors being unable to practise due...
to the collapse of UMP. One story I have been very concerned about was the question of midwives needing to get some sort of cover or at least support from government to guarantee that they could practise in this country. Of the 250,000 births in this country, 98 per cent are attended by midwives. It has already been shown statistically—and certainly by standards incorporated through the World Health Organisation—that midwives have always been the better option for the periods before, during and after the birth of any child. That is one of the benefits a good public health system should provide.

Over the last two years, though, when the issue was raised, the government was not able to come to the party and some 12,500 midwives in this country, particularly independent and contract midwives, were put out of work. I must mention, though, that in South Australia and Western Australia they have gone to some lengths to try to alleviate that problem.

The Democrats believe in a responsible society, but our main concern is for the consumers, the injured, and how they will live and be cared for. In this case, if Mr Swain had not received this payout, he would have spent the rest of his life relying on government financial support to survive. People talk about ‘the system’ taking care of the catastrophically injured but, as was pointed out in today’s Sydney Morning Herald by Mr Swain’s lawyer, the mythical all-caring system barely exists in reality. Mr Swain’s parents are indeed the system. They are all that stand between their injured son and a future of scraping by on a meagre pension, taking up a bed in a nursing home. This is a subject that my colleague Senator Greig has campaigned tirelessly about, in that we live in a country where young disabled people cannot get residential care anywhere except in a nursing home for the elderly. All of the focus on spiralling insurance premiums and capping damages in negligence cases forgets the real issue here—that is, there are people who have been injured and who need to be taken care of. It is not enough to simply put an artificial limit on the amount of compensation and hope that the problem will somehow just go away.

If we look at the operation of the tort law reforms over the past few years, the reforms have not had their intended effect. It is true that there has been a massive decline in the number of cases that are fought in the courts. Recent figures from the Productivity Commission continue to show that there has been a fall of some 43,000 cases in the three years since governments began restricting access to the justice system. Most of those, of course—I think 60 per cent—were in New South Wales. Some might say that a reduced income for lawyers can only be a good thing. However, the real point is that artificial caps on damages and restricted access to justice may be depriving genuinely deserving victims of negligence of their autonomy and independence. The Law Council of Australia has said that it is clear that tort reform has gone too far and is preventing legitimate claims being lodged in court.

What is worse is that this massive decline in civil cases has not led to a decline in insurance premiums, as we were all told it would. That was the great promise; it has now become the great myth. In fact, premiums continue to rise. John Ridgway—no relative of mine—from the Association of Consulting Engineers has said, ‘There is certainly no indication at this stage that the reforms have produced any relief, such as any major reduction in premium costs or major changes in the way in which insurers impose exclusions in insurance policies.’

In essence, people are being denied access to justice and premiums are still on the rise while insurance companies across the coun-
try are doing pretty fine—or more than fine, in fact. In the 2004 General Insurance Industry Survey, the insurance companies surveyed had increased their gross premium income by 12 per cent to $23.58 billion. Underwriting profit before tax improved by 428 per cent to $1.551 billion and investment returns added a 73 per cent improvement with a contribution of just over $2 billion. The Democrats do not have a problem with a successful insurance industry, but we do believe it is time for insurance companies to start taking some responsibility because people who have suffered grievous injury and who have been left to spend their lives surviving on a trifling pension are also suffering while insurance companies have never been more profitable. Following years of so-called tort reform, years of winding back plaintiffs rights, the inevitable scaremongering that follows any court-ordered compensation payout and spiralling public liability insurance premiums, the insurance companies are the only ones laughing all the way to the bank.

There have been some discussions in the past few days about reform proposals such as a nationalised no-fault accident compensation scheme, such as the one that operates in New Zealand. In fact, the Democrats launched a policy during the election campaign recommending a similar approach. We welcome the discussions and agree that there is a need for comprehensive reform. But I do want to add a note of caution because we must strive to ensure that any such proposed scheme cannot be used to allow negligent operators to avoid their responsibilities. Criminally negligent individuals or businesses must not be allowed to escape liability in cases of grievous injury and lifelong harm. I am certainly not suggesting that for a moment in relation to High Court cases but, in terms of commentary from Premier Carr and certainly Justice Spigelman, there is now a suggestion and recognition that the reforms have gone too far and have cut out access to the justice system by those people who deserve to be heard and compensated.

**China: Water Supply**

**Senator WATSON (Tasmania) (6.47 p.m.)—**Tonight I wish to address the issue of China’s depleted water supply, the looming threat to world food security and its implications for both China and Australia. As a country with a huge population of over 1.2 billion people, China depends on irrigated land to produce 70 per cent of the grain it requires. However, it is also using more and more of that water to cater for its fast-growing cities and industries. The global concern is that, with rivers in China running dry and aquifers becoming very low, the water shortage could lead to a sharp rise in China’s grain imports and, as a consequence, push the world’s import needs beyond supplies. In the future China may well look to Australia for grain to make up this shortfall. This may help Australian farmers and reduce the trade deficit gap, which is currently in China’s favour, but the issue of edible Australian imports from polluted areas does need to be addressed. How can Australia be certain that fish and other food products it imports, not only from China but also from other Asian exporting nations, are free from contaminants?

A quarter of a century ago, the Yellow River began to falter. In 1972 the water level fell so low that for the first time in history it actually dried up before reaching the sea. After a drought in 1997, the river failed to reach the sea for 226 days. A recent survey by the China Agricultural University in Beijing indicated that the water table beneath much of the North China Plain, a region that produces some 40 per cent of China’s grain, has fallen an average of 1.5 metres—which
is, as you know, Mr President, approximately five feet—per year over the last five years.

China’s irrigation water supply is being depleted in three ways—namely, the diversion of water from rivers and reservoirs to cities, the depletion of underground supplies and, most significantly, the increasing pollution as a result of rapid industrialisation. Agriculture simply cannot compete for water use in economic terms with industry. For example, 1,000 tonnes of water can produce one tonne of wheat with a market value of $200. This is small in comparison to industry, which, with the same quantity of water, can produce an estimated $14,000 of output—70 times as much.

When farmers lose irrigation water, they either resort to rain-fed farming or, if rainfall is not sufficient, abandon the land altogether. China will simply revert to rain-fed farming, whereupon the yield will decline by about one-half to two-thirds. This portrays a very grim picture, but even this does not take into account the compounding effects of pollution. According to the United Nations Food and Agriculture Organisation, 80 per cent of the rivers are so toxic they can no longer support fish. Because of the poisons released from cities and industries such as paper mills, tanneries, oil refineries and chemical plants, the Yellow River now contains high concentrations of heavy metals and other toxins, making it unfit for irrigation, much less for human consumption.

There are horrific water pollution stories throughout China as farmers continue to irrigate with heavily polluted water. For example, in the Shanxi province in the Yellow River watershed, rice has been found to contain excessive levels of chromium and lead, and cabbage is laced with cadmium. Along the length of the Yellow River there are abnormally high levels of mental retardation, stunting and developmental diseases, which are linked to elevated concentrations of arsenic and lead in the water and food.

China must look at alternative solutions, such as more water efficient crops and livestock products, and to less water reliant energy sources. It will also have to address the pollution problems. But China is not the only country that one has to be aware of in terms of exported agricultural and fish products. There are other places in Asia where areas associated with heavy industrialisation do pose threats to clean agricultural products. As we move to free trade agreements with many of our Asian neighbours, I believe it is the responsibility of the Australian government to ensure that imported food products are of the highest quality and are not contaminated.

Indian Ocean Tsunami

Senator BARNETT (Tasmania) (6.53 p.m.)—I rise to pay tribute to the Prime Minister, the Australian government and the Australian people for their efforts in response to the tsunami disaster. I wish to acknowledge the tremendous contributions of the Australian charities, many Christian charities, in their prompt action to provide relief. Finally, I wish to dismiss allegations by some that the tsunami tragedy proves that there is no God.

I join my colleagues in the House of Representatives, who have joined together this week to pay their respects to those who died in the tsunami tragedy and to those who survived but who have been crushed by the loss of loved ones, in some cases their entire families, relatives and friends. I cannot pretend to know the extent of my emotions if I were to lose my entire family in an instant. Frankly, such comprehension is beyond me. That is all the more reason why we share the sorrow of our cousins in Asia and elsewhere for the wholesale loss of life this past December and since, numbering in excess of 280,000 lives.
Indonesia lost more than 160,000 citizens. Sri Lanka lost over 31,000 people. India lost over 15,000 people. Thailand lost more than 5,000 people. Other countries, including the Maldives, Malaysia, Somalia and the Seychelles, were also heavily affected. At the last count, 18 people from Australia, 12 citizens and six permanent residents, have been confirmed dead, with grave concerns for nine more.

Tonight I wish to express my gratitude and admiration to the Prime Minister, John Howard; the Minister for Foreign Affairs, Alexander Downer, and his Parliamentary Secretary, Bruce Billson; the Defence Minister, Robert Hill; and other ministers and the relevant departments, agencies and authorities from Australia for the way they responded to the disaster so quickly, so decisively and so generously. It made me immensely proud to be an Australian. In our history it has been a rare phenomenon for a prime ministerial action to attract such widespread acclaim and understanding across the wide spectrum of Australian political society.

The Australian government has committed more than $1 billion and considerable in-kind assistance to relief efforts. As the Prime Minister has said, the focus of Australia’s aid has been Indonesia. Altogether our commitment to Indonesia over five years comes to $1.8 billion in grants and concessional loans. This has included 800 tonnes of emergency aid to Aceh province and North Sumatra, involving emergency equipment, food, water and medical supplies. On top of this, Australians have dug deep and individually donated $235 million to the region via aid agencies. Overall, it works out at $100 per head of population from a nation with a comparatively small population, albeit with a strong economy.

Based on the recent research I have received, I note that commitments from around the world total more than $5 billion. Not only has Australia made up more than one-third of that total; Australia is the world’s largest single donor country to the recovery from the Asian tsunami disaster. Australia is ahead of bigger countries and organisations, such as Germany, which donated $A660 million; the European Union, which donated $A529 million; Japan, which donated $A500 million; the USA, which donated $A350 million; the Asian Development Bank, which donated $A675 million; and the World Bank, which donated $A250 million. Based on all the research overall, Australia’s response at both the public and the private level has been the most generous in the world.

I offer my gratitude and praise for the way Australians from the Prime Minister down to on-site, anonymous Australian tourists have given selflessly to ease the suffering of the more than one million people displaced, the five million people deprived of basic services and all the others affected. All this is in response to the earthquake in the Indian Ocean on 26 December 2004 being the world’s most severe in the last 40 years.

In my tiny corner of the earth, my children watched the unfolding tragedy on television after Boxing Day and decided to set up a make-shift stall at the bottom of our home driveway to raise money for the tsunami victims. They made and raked together all kinds of merchandise for sale, also co-opting support from my wife, Kate, to bake cookies, co-opting me to provide vegetables from our garden, my mother to make bouquets of flowers, and neighbours and friends to provide toys and clothes. They had an enormous lot of fun and raised $402.80 for World Vision’s tsunami relief.

It was their idea, and they were no doubt prompted to do this through the example set by Mr Howard, our political leaders, aid agencies and others in the community.
struck me how infectious the generosity of the spirit can be, as opposed to the dark messages of violence and despair that we often see on television. Having said that, I feel compelled to note that, standing in stark contrast to Australia’s response, was the response of the region’s Islamic brother and sister countries in the Middle East. Based on the latest research, Saudi Arabia donated $A30 million, Qatar donated $A25 million, the United Arab Emirates donated $A20 million and Kuwait $A10 million. The total from these oil rich countries is $85 million.

The tsunami tragedy is likely to bedevil those countries affected for many years, even decades in some cases. I am sure the total cost will run into many billions of dollars, and I have heard projections of $20 billion and $30 billion. Australians are generous by nature. To date I have outlined the onerous task ahead in Asia and I hope that countries all around the world, and Middle Eastern countries in particular, reconsider their giving where possible because there is still so much more to be done beyond the initial outpouring of funds, support and compassion. Australians are generous. Recent research has found that, on a per capita basis, we donate on average $180 each per year to all charities and causes. Overall, this totals about $5.4 billion, which includes almost $3 billion in individual donations, while business in this country on average donates about $1.5 billion a year to charities.

Australian volunteers—33 per cent of the adult population—provide free support and assistance each year to causes at an assessed value of $24 billion a year or about $66 million a day. It works out at something like 700 million man hours and obviously saves all levels of government a colossal amount of time, effort and money. I mention this because, as the Prime Minister said on Tuesday, there were many Australian tourists in Asia when the tsunami struck who did not flee to the nearest international airport for the first available flight home, but stayed and used their own field of expertise in volunteering to help with such terrible clean-up tasks as body recovery and identification. In addition, I acknowledge the outstanding work of Defence Force personnel, medical staff, the Australian Federal Police, state police and the numerous charities represented by staff on site in Asia and at home here in Australia. Such has been the response to this terrible tragedy in the Islamic world from a predominantly Christian neighbour.

It is my belief, great hope and prayer that out of this tragedy we will see the symptoms of love and generosity shine like a beacon across this dark and dangerous world. One cannot escape a new mood, certainly a dynamic change of relationship between Australia and Indonesia, from one of caution, suspicion and occasional hostility in recent decades to one of warmth and a strong sense of allied purpose.

This dynamic milestone in the evolutionary relationship of our two countries has enormous potential for a shared purpose, stability and peace in our region long into the future. The origin of this change is of course a great tragedy, but it does demonstrate how a common and profound good can emanate from tragedy and sadness, no matter how bleak. Out of adversity, good can triumph.

Some have argued that the tsunami disaster is proof that God is dead. It is true that we live in an imperfect world with famine, earthquake and disease. We are faced with that every day, but God cannot be blamed for this and neither is it evidence that he does not exist. To the contrary, the outstanding generous Christian response in Australia is testimony to the influence of the Christian religion.

The PRESIDENT—Order! The time for your contribution has concluded.
Senator BARNETT—I seek leave to table the remainder of my speech.
Leave not granted.

Senator BARNETT—I seek leave to continue.

The PRESIDENT—Senator, you can make another adjournment speech next time round to finish it. The standing orders of the Senate say that the adjournment debate lasts for 40 minutes and that time has expired. I am sorry but that cannot be changed.

Leave not granted.

Senate adjourned at 7.02 p.m.

DOCUMENTS
Tabling

The following documents were tabled by the Clerk:

Made prior to the commencement of the Legislative Instruments Act 2003 on 1 January 2005:

Civil Aviation Act—
Civil Aviation Amendment Orders (No. R23) and (No. R52)-(No. R56) 2004.
Civil Aviation Regulations—Civil Aviation Amendment Orders (No. R1)-(No. R22), (No. R24)-(No. R51), (No. R57)-(No. R91) and (No. R95) 2004.

Civil Aviation Safety Regulations—Civil Aviation Amendment Orders (No. R92)-(No. R94) 2004.

Quarantine Act—
Quarantine Amendment Proclamation 2004 (No. 5).
Quarantine Amendment Proclamation 2004 (No. 6).

Quarantine (Christmas Island) Proclamation 2004.
Quarantine (Cocos Islands) Proclamation 2004.

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]:

Customs Act—Tariff Concession Orders—
Tariff Concession Instrument No. 0411587 [F2005L00186]*.
Tariff Concession Instrument No. 0411588 [F2005L00187]*.
Tariff Concession Instrument No. 0411939 [F2005L00189]*.
Tariff Concession Instrument No. 0412190 [F2005L00192]*.
Tariff Concession Instrument No. 0412191 [F2005L00194]*.
Tariff Concession Instrument No. 0412267 [F2005L00243]*.
Tariff Concession Instrument No. 0412268 [F2005L00245]*.
Tariff Concession Instrument No. 0412367 [F2005L00247]*.
Tariff Concession Instrument No. 0412369 [F2005L00248]*.
Tariff Concession Instrument No. 0412370 [F2005L00249]*.
Tariff Concession Instrument No. 0412709 [F2005L00251]*.
Tariff Concession Instrument No. 0412848 [F2005L00252]*.

* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Environment: High Intensity Active Naval Sonar

(Question No. 20)

Senator Allison asked the Minister for the Environment and Heritage, upon notice, on 16 November 2004:

(1) Is the Minister aware of the resolution of the Parliament of the European Union (EU) dated 28 October 2004 which calls on its 25 member states to stop the deployment of high intensity active naval sonar until more is known about the harm it inflicts on whales and other marine life.

(2) Is the Minister aware of the report of the Scientific Committee of the International Whaling Commission (IWC) which found compelling evidence that entire populations of whales and other marine mammals are potentially threatened by increasingly intense man-made underwater noise, both regionally and ocean-wide.

(3) Is the Minister aware that the IWC expressed particular concern about the effects of high intensity sonar, noting that the association with certain mass strandings ‘is very convincing and appears overwhelming’.

(4) Will the Government consider joining the EU in supporting the establishment of a multinational task force to develop an international agreement on sonar and other sources of intense ocean noise in order to exclude and seek alternatives to the harmful sonars used and to immediately restrict the use of high intensity active naval sonars in waters falling under their jurisdiction; if not, why not.

(5) Will the Minister provide details of: (a) the sonar systems used in Australian waters; and (b) the proposals to use active sonar during the proposed joint military training exercises between Australia and the United States of America (US) in Shoalwater Bay and surrounding waters.

(6) Will the environmental management plans for these joint military training exercises be made public and will the precautionary principle be adopted in all circumstances.

(7) Will the Minister provide details of proposals to adopt the new Surveillance Towed Array Sensor System Low Frequency Active system, currently in use on two US Navy ships, for Australian warships and submarines.

(8) What efforts have been made by the Government to improve knowledge about the distribution of whales in Australian waters and the effects of active sonar systems on marine life.

(9) Will the environmental impact of the use of active sonar systems in joint military exercises and more generally be overseen and assessed by marine scientists independent of government; if so, by whom; if not, why not.

Senator Ian Campbell—The answer to the honourable senator’s question is as follows:

(1) Yes.

(2) Yes.

(3) Yes. The United States Navy admits that there is a spatial and temporal correlation between some mass stranding events and its operation of certain types of sonar equipment in particular circumstances. There appears to be no instance in Australia of a whale stranding event occurring in association with the conduct of Defence activities using sonar.

(4) No. The sonars used by the Australian Department of Defence are operated in a way that ensures that there is minimal risk to marine mammals. The strategies in place for the operation of sonar equipment are among the most precautionary in the world.
(5) (a) Yes. There are hundreds of types of sonar devices used by civilians, industry and the military, ranging from depth sounders and fish finders to military systems used in anti-submarine warfare. With regard to the military applications of sonar technology used in military exercises, some information was made available to the public on 12 October 2004 in supporting information produced for the environmental impact assessment process currently underway for the United States - Australian Exercise Talisman Saber 05. Further information will also be provided early in 2005 as part of the public consultation process being undertaken for this exercise under the Environment Protection and Biodiversity Conservation Act (1999) and; (b) Yes. See answer to (a) above. Vessel mounted active anti-submarine warfare sonar is not used in Shoalwater Bay nor in the immediate vicinity. Anti-submarine warfare exercises will be conducted far offshore in the Coral Sea.

(6) Yes.

(7) There are no proposals to adopt Surveillance Towed Array Sensor System Low Frequency Active Sonar for Australian warships or submarines.

(8) The Australian Government, through the Natural Heritage Trust, has funded whale research of over three million dollars determining the distribution and abundance of the listed threatened species of blue, southern right and humpback whales. In addition, the Department of Defence has contributed funding over several years toward research into the distribution and abundance of blue whales and the effects of noise on humpback whales. It has also supported university studies of the effects of noise on whales, dolphins and other marine mammals. The Australian Government is aware of the concerns regarding the effect of sound on marine mammals and is monitoring research efforts particularly in Europe and North America to ensure we are abreast of the latest information. Defence has also conducted an environmental impact assessment of the use of all acoustic sources used by the Department of Defence in the marine environment.

(9) Yes, and this has already been done. The strategies dealing with acoustic sources of sound in the ocean, developed as part of an environmental impact management plan for Defence activities in the marine environment, were provided to the Department of the Environment and Heritage, the Whale and Dolphin Conservation Society (WDCS) and Dr Rob McCauley of Curtin University in WA, a world renowned expert in this field, for comment prior to being implemented by the Department of Defence.

Agriculture: Electronic Tagging System

(Question No. 51)

Senator Harris asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 17 November 2004:

(1) Which specific country or countries have asked Australia to implement the electronic tagging system.

(2) Why has Meat and Livestock Australia refused to carry out a cost-benefit analysis of this system.

(3) Why is this system, which imposes a cost burden on the beef industry, not being implemented for other industries such as pork, seafood and chicken, which have a far worse food contamination track record.

(4) Has the Minister applied any pressure on or requested any state to implement the system.

(5) Will the Government meet or subsidise the cost of implementing the system in Queensland.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) No country has asked Australia to implement an electronic tagging system. However, individual animal identification is a compulsory requirement for producers supplying the European Union.
(EU) market and the Australian cattle industry made a decision that this requirement would best be met through the use of National Livestock Identification System (NLIS) approved radio frequency identification devices (RFID). The EU agreed to this proposal and producers supplying the EU market are, therefore, required to use NLIS approved RFIDs. It should be noted that a number of major red meat producing countries, with which Australia competes for export markets, have introduced, or are in the process of introducing, national identification and tracing systems for cattle which include compulsory participation, permanent whole-of-life traceability and a national database system. These countries include the European Union, New Zealand, Canada, Brazil and Uruguay. In addition, Japan, Australia’s largest export market for beef, is introducing a compulsory national cattle tracing scheme.

(2) Earlier this year, Meat and Livestock Australia Ltd (MLA) commissioned Alliance Consulting and Management to undertake a cost analysis of NLIS compliance for beef producers. Alliance Consulting and Management have reported their findings to MLA, which has made this information available publicly.

(3) Increasing demands by international consumers/markets about the safety and integrity of Australian livestock and livestock products prompted the Primary Industries Ministerial Council (PIMC) to agree on the need for enhanced national traceback and traceforward systems. The importance of these systems has been demonstrated in recent years in the context of managing the global spread of Bovine Spongiform Encephalopathy (BSE or ‘Mad Cow’ Disease) and in responding to major animal disease outbreaks, such as the Foot-and-Mouth Disease (FMD) outbreak in the United Kingdom in 2001. Because of Australia’s reliance on beef and sheep exports, PIMC has agreed that the NLIS should be implemented for cattle and sheep, in the first instance, with other FMD-susceptible species such as domesticated pigs, goats, buffalo, camelids and camels, being included as soon as practicable. No consideration has been given at this stage to the avian and aquatic species.

(4) The power to implement compulsory livestock identification and tracing arrangements rests with the individual states/territories. At the April 2003 meeting of PIMC, which includes in its membership the Australian and State/Territory Agriculture Ministers, jurisdictions jointly agreed to implement the National Livestock Identification System from 1 July 2004 for cattle in the southern Australian States (Victoria, Tasmania, New South Wales, South Australia and the ACT) and 1 July 2005 for cattle in Queensland, Western Australia and the Northern Territory. PIMC also agreed that NLIS for sheep should commence on 1 July 2005.

(5) PIMC agreed that arrangements for implementing the NLIS should be determined at the state/territory level in close consultation with relevant industry sectors. Further, it was agreed that the nature and quantum of any cost sharing arrangements should be at the discretion of individual jurisdictions and undertaken as part of this implementation process. The Queensland Government has agreed to provide $1.9 million for maintenance/development of the Agricultural Property System which underpins NLIS in Queensland and a further $1.7 million for NLIS development and implementation. At the national level, the Australian Government provided $2 million in June 2004 to enhance the national NLIS database and assist in technology development and, during the election campaign, announced the provision of an additional $20 million over the next three years to assist the Australian cattle industry to introduce the NLIS on a national level. This builds upon the approximately $4.1 million in matching research and development funds made available to MLA by the Government for NLIS development work over the past four financial years (2000/01-2003/04). In addition, $1.3 million in red meat industry funds held over by the Department of Agriculture, Fisheries and Forestry from the initial capitalisation of MLA, was released in 2001/02 for the purposes of establishing the NLIS database.
Sydney Harbour Federation Trust

(Question No. 58)

Senator Chris Evans asked the Minister for the Environment and Heritage, upon notice, on 18 November 2004:

(1) Were there any valuations done on any of the sites prior to the transfer from the Department of Defence to the Sydney Harbour Federation Trust.

(2) What was the valuation for each of the sites managed by the Trust.

(3) (a) Who undertook these valuations; and (b) when were they undertaken.

(4) What is the estimated current valuation for each of the sites being managed by the Trust.

(5) (a) Was there any valuation of the cost of the remediation works that were required at each of the ex-Defence sites being managed by the Trust; and (b) what was the amount of these valuations.

(6) For each financial year to date: How much has been spent on remediation and environmental works at each of the ex-Defence sites now managed by the Trust.

(7) When is it expected that all remediation work at the ex-Defence sites will be completed.

(8) What is the process by which the ex-Defence sites will be transferred to the State of New South Wales following completion of remediation works at these sites.

(9) (a) Will the sites then become part of the Sydney Harbour National Park, under the management of the New South Wales Government; and (b) when is it expected that this will occur.

Senator Ian Campbell—The answer to the honourable senator’s question is as follows:

(1) The following valuations were done for the Defence sites prior to transfer:
   - Depreciated capital value of buildings on the sites;
   - Two market valuations of houses in Markham Close precinct; and
   - Rental valuation of all buildings.

(2) None of the valuations undertaken (apart from Markham Close) discloses the commercial value of the property for the purposes of sale on the open market. In the case of Markham Close, valuations for open market sale have been obtained, however the information is commercial in confidence.

Note – Macquarie Lightstation and Snapper Island are not former Defence sites and are to be transferred from the Department of Finance and Administration; North Head is to be managed by the Sydney Harbour Federation Trust (the Trust) but not transferred to it.

(3) (a) and (b) The valuations were undertaken by:
   - Australian Valuation Office (AVO), 1999 (Depreciated capital value of buildings on the sites)
   - AVO, 2000; and Local Valuer, 2002 (market valuations of houses in Markham Close)
   - Colliers International Valuers, 2002 (Rental valuation of all buildings).

(4) The latest valuation was completed by Colliers International after the transfer of sites in August 2003 and was prepared on the basis of the Trust’s Plan. The Plan assumes that the lands can only be transferred to another government entity and the valuations were undertaken for the purpose of preparing the Trust’s 2002-2003 financial statements. The valuations are:

<table>
<thead>
<tr>
<th>SITE</th>
<th>LAND</th>
<th>BUILDINGS</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cockatoo Island</td>
<td>-$11,000,000</td>
<td>$4,000,000</td>
<td>-$7,000,000</td>
</tr>
<tr>
<td>Macquarie Lightstation</td>
<td>$5,500,000</td>
<td>$3,500,000</td>
<td>$9,000,000</td>
</tr>
<tr>
<td>Middle Head</td>
<td>$10,500,000</td>
<td>$11,500,000</td>
<td>$22,000,000</td>
</tr>
</tbody>
</table>

*excluding Markham Close houses

QUESTIONS ON NOTICE
(5) An assessment of the proposed site works costs was done for all the sites managed by the Trust, including the ex-Defence sites; (b) The total cost of the proposed works was assessed at $127,478,000, comprising remediation costs of $45,936,000, rehabilitation costs of $56,932,000 and conservation costs of $24,613,000.

(6) In accordance with the Sydney Harbour Federation Trust Act 2001, the Trust to date has carried out only maintenance and repair works, access and safety works and works of a temporary nature. The total costs of such work for each of the financial years since the Trust’s establishment are:- 1999-2000 – nil; 2000-2001 - $1.04m; 2001-2002 - $8.5m; 2002-2003 - $9.4m.

(7) The Trust’s Plan assumes a seven year program to complete all of the required works, finishing in 2010.

(8) The process for the transfer of the Trust sites has not yet been determined.

(9) (a) It is anticipated that the Trust will transfer suitable land to New South Wales when the Trust has completed its work. The details of the transfer and the specific state agency or agencies that will receive them are yet to be negotiated with the New South Wales Government; (b) At this time, it is expected that suitable sites will be transferred to New South Wales on completion of the implementation of the Trust’s Plan.

Goat Industry Council of Australia

(Question No. 93)

Senator Hutchins asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 18 November 2004:

With reference to the Goat Industry Council of Australia

(1) What is the council’s role and function?

(2) (a) How many members are on the council; (b) who are they; and (c) how are they appointed?

(3) Do council members receive remuneration from the Commonwealth; if so, how much?

(4) Over the past three financial years, what grants, income or other funds has the council received and administered, either directly or indirectly from the Commonwealth?

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) The Goat Industry Council of Australia (GICA) is the peak industry council representing Australian goat producers. Its responsibilities include the oversight of the goat meat industry’s strategic plan and setting objectives for industry marketing, research and development (R&D) and market access.

(2) (a) The GICA has three executives, three councillors and four associate members. (b) The executives are the President Ms Justine Hall, the Vice President Mr Ian Firth and the Treasurer Ms Denise Riches. The councillors are Ms Marg Piccoli, Mr Sandy McTaggart and Mr David Lawrie. The associate members are Mr Andrew James, Mr Peter Griffiths, Mr Ted Byres and Mr Geoff Fitzner. (c) Each state has one member with the exception of Tasmania. The relevant state goat industry representative bodies appoint one representative for the GICA. The associate members represent the special interest groups in the goat industry.

(3) No.

QUESTIONS ON NOTICE
(4) GICA does not receive funding from the Australian Government.

Immigration and Multicultural and Indigenous Affairs: Advertising
(Question No. 132)

Senator Faulkner asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 19 November 2004:

(1) Not including any advertising campaigns contained in questions on notice nos 2960 to 2979, for each of the financial years, 2003-04 and 2004-05 to date: (a) what is the cost of any current or proposed advertising campaign in the department; (b) what are the details of the campaign, including: (a) creative agency or agencies engaged; (b) research agency or agencies engaged; (c) the cost of television advertising; (d) the cost and nature of any mail out; and (e) the full cost of advertising placement.

(2) When will the campaign begin, and when is it planned to end.

(3) (a) What appropriations will the department use to authorise any of the payment either committed to be made or proposed to be made as part of this advertising campaign; (b) will those appropriations be made in the 2003-04 or 2004-05 financial year; (c) will the appropriations relate to a departmental or administered item or the Advance to the Minister for Finance and Administration; and (d) if an appropriation relates to a departmental or administered item, what is the relevant line item in the relevant Portfolio Budget Statement for that item.

(4) Has a request been made of the Minister for Finance and Administration to issue a drawing right to pay out moneys for any part of the advertising campaign; if so: (a) what are the details of that request; and (b) against which particular appropriation is it requested that the money be paid.

(5) Has the Minister for Finance and Administration issued a drawing right as referred to in paragraph (4) above; if so, what are the details of that drawing right.

(6) Has an official or minister made a payment of public money or debited an amount against an appropriation in accordance with a drawing right issued by the Minister for Finance and Administration for any part of the advertising campaign.

Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) to (6) The Department has not undertaken any advertising campaigns that were approved by the Ministerial Committee on Government Communications that have not previously been identified in Question on Notice number 121.

Australian Competition and Consumer Commission: Tobacco Companies
(Question No. 144)

Senator Allison asked the Minister representing the Treasurer, upon notice, on 24 November 2004:

(1) Has the Australian Competition and Consumer Commission (ACCC) received final advice from legal counsel regarding the feasibility of instituting proceedings against tobacco companies with regard to misleading and deceptive practices in the use of the terms ‘mild’ and ‘light’ and other similar descriptors; if so, can a copy be provided.

(2) If the ACCC has not received this final advice: (a) what has delayed the receipt of this final advice which was expected within a few weeks of the public hearing on 12 August 2004 of the Community Affairs Legislation Committee inquiry into the exposure draft of the Tobacco Advertising Prohibition (Film, Internet and Misleading Promotion) Amendment Bill 2004 and the adequacy of the ACCC response to date on issues concerning tobacco; and (b) when will the advice be received.
(3) If the ACCC has received such advice: (a) what was the outcome of the ACCC’s consideration of this advice; and (b) has the ACCC approached the Minister in regard to this advice; if so, what was the outcome of the Minister’s consideration of this matter.

Senator Minchin—The Treasurer has provided the following answer to the honourable senator’s question:

(1) The ACCC has received “final” legal advice from Counsel in relation to the ACCC’s “mild” and “light” investigation. The ACCC is unable to release the advice as it forms part of the ACCC’s current investigation, is subject to legal professional privilege and releasing the document may prejudice the Commission’s investigation.

(2) See response to 1.

(3) (a) As a result of the ACCC’s consideration of all the relevant material it has before it, including the “final” legal advice, the ACCC has concluded that the labelling of “light” and “mild” cigarettes and the way in which these cigarettes have been marketed over several years all combine to give a misleading impression of the health benefits of smoking these cigarettes. (b). The ACCC has informed the Treasurer and the Minister for Health and Ageing, and their Parliamentary Secretaries, in relation to the relevant material it has before it, including the “final” legal advice. The ACCC will continue to pursue the matter with the relevant tobacco companies and does not require any Government supporting action.

**Xstrata: Proposed Investment in Australia**

(Question No. 160)

Senator Mark Bishop asked the Minister representing the Treasurer, upon notice, on 6 December 2004:

(1) Has an application been received by the Foreign Investment Review Board from Xstrata Plc, Glencore International AG, their subsidiaries or related entities to take over WMC Resources Ltd; if so, on what date was the application made.

(2) (a) What is the process of investigation of such takeovers; (b) what time limits apply; and (c) what assessments would be made of the corporate behaviour of any applicant, domestically or internationally.

(3) In the event of an application being considered, will the report of the Western Australian Parliament’s Economics and Industry Standing Committee, Inquiry into Vanadium Resources at Windimurra, which deals with the closure of the Windimurra vanadium mine in Western Australia by Xstrata Plc, be taken into account.

(4) Will consideration of any application also take into account allegations made publicly to the effect that the closure of the Windimurra mine by Xstrata Plc involved unconscionable conduct, including false and misleading statements about the viability of the mine and deliberate destruction of the mine’s operational future resulting in significant financial loss for other investors.

Senator Minchin—The Treasurer has provided the following answer to the honourable senator’s question:

(1) Details of cases considered by the Foreign Investment Review Board are confidential between the Board and the parties concerned. In general, no details regarding proposals are issued to third parties, and confidentiality requirements are strictly observed.

(2) (a) All large proposals are examined under the relevant legislation and are subject to a national interest test. The Foreign Investment Review Board provides advice to the Treasurer on specific proposals. It is usual practice for the Foreign Investment Review Board to consult the target company and third parties, including relevant state governments, in relation to proposals and considera-
tion is also give to public submissions. Under the legislation, the Treasurer has the power to reject or approve a proposal subject to conditions, if he considers it raises issues contrary to the national interest.

(2) (b) Where a statutory notice has been lodged, the statutory period for a decision on proposals is 30 days from the date of receipt. A further period of up to 10 days is allowed to notify the parties. The Government can also issue interim orders which allow a further 90 days to consider a proposal.

(2) (c) All relevant information regarding a proposal which may bear upon the national interest test will be taken into account by the Foreign Investment Review Board in providing advice to the Treasurer.

(3) All relevant information regarding Xstrata and its operations will be taken into account in the provision of advice regarding any proposal by Xstrata to acquire WMC.

(4) It is not the Government’s practice to publicly speculate on the issues involved in any particular proposal.

Primary Energy Ltd
(Question No. 201)

Senator O’Brien asked the Minister for the Environment and Heritage, 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 answer to the honourable senator’s question is as follows:

Primary Energy Limited did register interest on 25 June 2003 under Round 3 of Greenhouse Gas Abatement Program (GGAP), but did not lodge a project proposal.

Primary Energy Limited has not formally sought funding from the Department of the Environment and Heritage under any other program.

Primary Energy Ltd
(Question No. 203)

Senator O’Brien asked the Minister for the Environment and Heritage, upon notice, on 20 December 2004:

With reference to the Greenhouse Gas Abatement Program:

(1) On what date were expressions of interest and/or applications first sought under round one of the program.

(2) Did Primary Energy Limited lodge an expression of interest and/or project proposal under round one; if so, on what date(s).

(3) What was the closing date for lodgement of expressions of interest.

(4) What was the closing date for lodgement of project proposals.

(5) How many project proposals were lodged.

(6) On what date were successful projects announced.

(7) What projects were funded under this round.

(8) For each successful project from round one of the program, will the Minister provide: (a) the amount of funding; (b) a brief description of the project; and (c) a report on progress.
(9) On what date were expressions of interest and/or applications sought under round two of the program.
(10) Did Primary Energy Limited lodge an expression of interest and/or project proposal under round two; if so, on what date(s).
(11) What was the closing date for lodgement of expressions of interest.
(12) What was the closing date for lodgement of project proposals.
(13) How many project proposals were lodged.
(14) On what date were successful projects announced.
(15) What projects were funded under this round.
(16) For each successful project from round two of the program, will the Minister provide: (a) the amount of funding; (b) a brief description of the project; and (c) a report on progress.
(17) On what date were expressions of interest and/or applications sought under round three of the program.
(18) Has Primary Energy Limited lodged an expression of interest and/or project proposal under round three; if so, on what date(s).
(19) What was the closing date for lodgement of expressions of interest.
(20) What was the closing date for lodgement of project proposals.
(21) How many project proposals have been lodged.
(22) Did the Australian Greenhouse Office (AGO) publish advice on their website that round three assessments would be completed and forwarded to Ministers in mid-2004 for a final decision on round three recipients.
(23) Do the published round three guidelines state that successful projects will be announced before the end of the 2003-04 financial year.
(24) On what date were round three assessments completed.
(25) On what date did the AGO provide a shortlist to relevant Ministers of projects that meet program criteria to the highest degree.

Senator Ian Campbell—The answer to the honourable senator’s question is as follows:

(1) Applications under round one of the Greenhouse Gas Abatement programme were first sought in July 2000. Registrations of interest were not sought for the first round of the Greenhouse Gas Abatement Programme.
(2) Primary Energy Limited did not lodge a project proposal under round one of the Greenhouse Gas Abatement Programme.
(3) Registrations of interest were not sought for the first round of the Greenhouse Gas Abatement Programme.
(4) The closing date for lodgement of project proposals for the first round of the Greenhouse Gas Abatement Programme was 5 September 2000.
(5) 107 project proposals were lodged under round one of Greenhouse Gas Abatement Programme.
(6) See Table 1 below.
(7) See Table 1 below.
(8) See Table 1 below.
### TABLE 1 - GGAP ROUND ONE PROJECTS

<table>
<thead>
<tr>
<th>Project Title</th>
<th>Funding ($m)</th>
<th>Project Description</th>
<th>Progress</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alcan Gove</td>
<td>7.00</td>
<td>Conversion from oil to gas of equipment at Alcan Gove alumina refinery in NT.</td>
<td>Project on track to deliver abatement in the Kyoto target period.</td>
</tr>
<tr>
<td>BP</td>
<td>8.80</td>
<td>Producing, distributing and marketing of petrol/ethanol blend containing 10% of ethanol (E10).</td>
<td>Project on track to deliver abatement in the Kyoto target period.</td>
</tr>
<tr>
<td>Business Council for Sustainable Energy (BCSE)</td>
<td>10.00</td>
<td>BCSE to facilitate the construction and operation of a suite of cogeneration projects.</td>
<td>Project implementation delayed due to difficulties experienced by the proponent in reaching agreement with third party project partners.</td>
</tr>
<tr>
<td>Douglas Mossman</td>
<td>7.35 (includes 2.35 from sources other than GGAP)</td>
<td>Development of an ethanol production plant using by-products from sugar mill, and planting trees on marginal grazing land.</td>
<td>Project on track to deliver abatement in the Kyoto target period.</td>
</tr>
<tr>
<td>EDL</td>
<td>15.47</td>
<td>Use of waste coal mine gas to generate electricity.</td>
<td>Project on track to deliver abatement in the Kyoto target period.</td>
</tr>
<tr>
<td>Enviropen I</td>
<td>13.00</td>
<td>Use of waste coal mine gas to generate electricity.</td>
<td>Project on track to deliver abatement in the Kyoto target period.</td>
</tr>
<tr>
<td>Macquarie Generation</td>
<td>5.00</td>
<td>Increase the generation efficiency of the Liddell Power Station by replacing the low-pressure turbines</td>
<td>Project on track to deliver abatement in the Kyoto target period.</td>
</tr>
<tr>
<td>National Refrigeration &amp; Air Conditioning Council (NRAC)</td>
<td>3.73</td>
<td>Training and certification of technicians to minimise HFC emissions.</td>
<td>Project on track to deliver abatement in the Kyoto target period.</td>
</tr>
<tr>
<td>Origin Energy</td>
<td>16.00</td>
<td>Origin to facilitate the construction and operation of a suite of natural gas fired cogeneration plants.</td>
<td>Project implementation delayed due to difficulties experienced by the proponent in reaching agreement with third party project partners.</td>
</tr>
<tr>
<td>Queensland Alumina</td>
<td>11.00</td>
<td>Replacement of nine natural gas fired rotary kilns with three energy-efficient calciners.</td>
<td>Project on track to deliver abatement in the Kyoto target period.</td>
</tr>
<tr>
<td>Refrigerant Reclaim Australia (RRA)</td>
<td>0.28</td>
<td>Reclaiming and destroying synthetic gases from refrigeration and air conditioning machinery.</td>
<td>Project on track to deliver abatement in the Kyoto target period.</td>
</tr>
</tbody>
</table>

(9) Applications under and/or registrations for round two of the programme were first sought in May 2001.

(10) Primary Energy Limited did not register an interest in or lodge a project proposal under round two of the Greenhouse Gas Abatement Programme.

(11) The closing date for registration of interest was 8 June 2001.

(12) The closing date for lodgement of project proposals for the second round of the Greenhouse Gas Abatement Programme was 2 July 2001.

(13) 71 project proposals were lodged under round two of the Greenhouse Gas Abatement Programme.

(14) See Table 2 below.

(15) See Table 2 below.
(16) See Table 2 below.

### TABLE 2 - GGAP ROUND TWO PROJECTS

<table>
<thead>
<tr>
<th>Project Title</th>
<th>Funding ($m)</th>
<th>Project Description</th>
<th>Progress</th>
</tr>
</thead>
<tbody>
<tr>
<td>BHP</td>
<td>6.00</td>
<td>Use of waste coal mine gas to generate electricity.</td>
<td>Project on track to deliver abatement in the Kyoto target period.</td>
</tr>
<tr>
<td>Announced on 11.10.01</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Envirogen II</td>
<td>9.00</td>
<td>Use of waste coal mine gas to generate electricity.</td>
<td>Project on track to deliver abatement in the Kyoto target period.</td>
</tr>
<tr>
<td>Announced on 11.10.01</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>National Travel Behaviour Change</td>
<td>6.49</td>
<td>Project aiming to reduce car use in favour of walking, cycling, public transport in QLD, SA, VIC, ACT.</td>
<td>Project on track to deliver abatement in the Kyoto target period.</td>
</tr>
<tr>
<td>Announced on 15.08.03</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Latrobe Valley (Mechanical Thermal Expression - MTE)</td>
<td>11.13</td>
<td>Demonstration project to pre-dry Victorian brown coal through the process of Mechanical Thermal Expression.</td>
<td>Project under negotiation due to technical issues.</td>
</tr>
<tr>
<td>Announced on: 18.10.01</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Centennial Coal</td>
<td>15.00</td>
<td>Use of waste coal mine gas to generate electricity.</td>
<td>Withdrawn because of technical difficulties.</td>
</tr>
<tr>
<td>Announced on 11.10.01</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CRT</td>
<td>6.97</td>
<td>Introduction of an alternative mode of freight transport, CargoSprinter, to conventional heavy rail and trucking.</td>
<td>Withdrawn because of technical difficulties.</td>
</tr>
<tr>
<td>Announced on 11.10.01</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CSIRO</td>
<td>13.45</td>
<td>Development and facilitation of accelerated adoption of vaccines to reduce methane emissions from sheep and cattle.</td>
<td>Withdrawn because of technical difficulties.</td>
</tr>
<tr>
<td>Not formally announced</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(17) Applications under and/or registrations for round three of the programme were first sought in May 2003.


(19) The closing date for registering for round three was 26 June 2003.

(20) The closing date for lodgement of project proposals was 21 August 2003.

(21) 50 project proposals were lodged under round three of the Greenhouse Gas Abatement Programme.

(22) The Australian Greenhouse Office website advised that Round 3 assessments were expected to be completed and forwarded to Ministers in mid 2004 for a final decision on Round 3 grant recipients.

(23) Yes.

(24) Round three assessments were completed in late August 2004.

(25) 20 December 2004. Submission of the recommended short-list of Round three Greenhouse Gas Abatement projects to the Minister for the Environment was delayed because of the election period.

**Ansett Australia: Employee Entitlements**

(Question No. 264)

**Senator O’Brien** asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 23 December 2004:

1. On what date did: (a) the Minister; (b) the Minister’s office; and (c) the department, become aware of the meeting of former Ansett employees on 27 November 2004 to discuss unpaid entitlements.
(2) In each case in (1) what was the source of information.

(3) Did: (a) the Minister; (b) the Minister’s office; and (c) the department, attend the meeting to address former Ansett employee concerns about outstanding employee entitlements.

(4) In each case in (3) if not, why not.

(5) On what date(s) has: (a) the Minister; (b) the Minister’s office; and (c) the department, met with representatives of former Ansett employees to discuss the matter of outstanding employee entitlements.

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

(1) (a) 15 November 2004.
(b) 15 November 2004.
(c) 15 November 2004.

(2) (a) Press reports of the proposed meeting.
(b) Press reports of the proposed meeting.
(c) Press reports of the proposed meeting.

(3) (a) No.
(b) No.
(c) No.

(4) (a), (b) and (c) The Government has met in full its commitment to the former Ansett employees, therefore the issue of any remaining outstanding entitlements are a matter solely between the Ansett administrators and the former Ansett employees.

(5) (a), (b) and (c) No meeting has occurred nor has any meeting been requested. Noting that, the Government has met in full its commitment to the former Ansett employees, therefore the issue of any remaining outstanding entitlements are a matter solely between the Ansett administrators and the former Ansett employees.

Agriculture, Fisheries and Forestry: Executive Remuneration

(Question No. 290)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 23 December 2004:

With reference to the department’s evidence to the Rural and Regional Affairs and Transport Legislation Committee on 10 February 2003 concerning under-reporting of executive remuneration in the department’s 2000-01 and 2001-02 financial statements:

(1) On what day did the department seek advice from the Australian National Audit Office (ANAO) about whether the under-reporting constituted a ‘material breach’.

(2) Which officer sought that advice.

(3) Was the request oral or written.

(4) On what day did the ANAO provide advice to the department.

(5) Which officer provided this advice.

(6) What was the content of this advice.

(7) Was this advice oral or written.

(8) If oral, can confirmation of this advice be provided; if not, why not.

(9) If written, can a copy of this advice be provided.
QUESTIONS ON NOTICE

(10) Has the department sought advice from the ANAO on whether it is necessary to issue a corrigendum to the 2000-01 and 2001-02 financial statements: (a) if so: (i) on what day was this advice sought, (ii) which officer sought this advice, and (iii) was the request for this advice oral or written; and (b) if not: (i) from which agency was this advice sought, (ii) which officer sought this advice, and (iii) was the request oral or written.

(11) On what day was advice on the matter of the corrigendum received.

(12) What was the content of this advice.

(13) Was this advice oral or written.

(14) Which officer and agency provided this advice.

(15) What specific change to departmental procedures has occurred since the under-reporting of executive remuneration was revealed in November 2002

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Advice was not specifically sought from the Australian National Audit Office (ANAO) about whether the under-reporting constituted a ‘material breach’.

(2) Not applicable.

(3) Not applicable.

(4) Not applicable.

(5) Not applicable.

(6) Not applicable.

(7) Not applicable.

(8) Not applicable.

(9) Not applicable.

(10) Yes.

(a) (i) On or about 9 December 2002 (ii) DAFF’s Chief Financial Officer (iii) Oral.

(b) Not applicable.

(11) On or about 9 December 2002.

(12) ANAO were of the view that strictly speaking a corrigendum should be issued however, that at the end of the day it was a decision for DAFF management. The Department of the Prime Minister and Cabinet (PM&C) and DAFF’s legal advisers were also consulted. PM&C was of the view that issuing a corrigendum would not be as useful as placing the correct information about the under-reporting on the public record via Hansard. Our legal advisers were of the view that there was no hard and fast legal requirement to issue a corrigendum and that ultimately it was a judgement call for management. They believed that the safer course would be either to correct the accounts or to issue a corrigendum.

(13) Oral.

(14) Executive Director, ANAO.

(15) Procedures are now in place to ensure that future executive remuneration notes are correct.

Minister for Agriculture, Fisheries and Forestry: Overseas Travel

(Question No. 299)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 23 December 2004:
For each of the following financial years: 1996-97, 1997-98, 1999-2000, 2000-01, 2001-02, 2002-03, 2003-04 and 2004-05 to date:

(a) how many overseas trips did the minister responsible for primary industries and agriculture undertake;

(b) what countries were visited on those trips; and

(c) on how many of those trips was the Minister accompanied by a business delegation.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(a) In the 1996/97 financial year the Minister undertook two overseas visits.
   In the 1997/98 financial year the Minister undertook three overseas visits.
   In the 1998/99 financial year the Minister undertook two overseas visits.
   In the 1999/2000 financial year the Minister undertook two overseas visits.
   In the 2000/01 financial year the Minister undertook two overseas visits.
   In the 2001/02 financial year the Minister undertook three overseas visits.
   In the 2002/03 financial year the Minister undertook three overseas visits.
   In the 2003/04 financial year the Minister undertook two overseas visits.
   In the 2004/05 financial year to date the Minister has undertaken one overseas visit. It is possible that the Minister will undertake further overseas visits during the remainder of the financial year.

(b) In the 1996/97 financial year the Minister visited Belgium, France, Italy and Chinese Taipei (unofficial visit).
   In the 1997/98 financial year the Minister visited Japan, the Republic of Korea, United States, Denmark, Italy and the United Kingdom.
   In the 1998/99 financial year the Minister visited Indonesia, New Zealand and Singapore.
   In the 1999/2000 financial year the Minister visited Canada, United States, Belgium, Italy, France, Switzerland and the United Kingdom.
   In the 2000/01 financial year the Minister visited France, Germany and Singapore.
   In the 2001/02 financial year the Minister visited Denmark, Indonesia, Italy, Sweden, Japan, United States, Philippines and Republic of Korea.
   In the 2002/03 financial year the Minister visited Japan, Indonesia, Argentina, Brazil, Chile, Mexico and Uruguay.
   In the 2003/04 financial year the Minister visited China, Egypt, Kuwait, Saudi Arabia, Jordan, Israel and the United Arab Emirates.
   In the 2004/05 financial year to date the Minister visited New Zealand.

(c) The Minister led business delegations to Chinese Taipei (during his unofficial visit) in 1996/97, the United States in 2001/02 and to the Middle East and China in 2003/04.